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# Votes and Proceedings

## OF THE LOWER HOUSE OF ASSEMBLY OF THE PROVINCE of MARYLAND.

OCTOBER SESSION, 1771.

Being the FIRST SESSION of this ASSEMBLY.

**A**T a Session of Assembly, begun and held at the City of *Annapolis*, on Wednesday the Second Day of *October*, in the Year of our Lord One Thousand Seven Hundred and Seventy-one, and in the Twenty-first Year of the Dominion of the Right Honourable FREDERICK, absolute Lord and Proprietary of the Provinces of *Maryland* and *Avalon*, Lord Baron of *Baltimore*, &c. (his Excellency ROBERT EDEN, Esq; being Governor) the following Delegates appeared in the Lower House of Assembly, viz.

*For St. MARY's County.*

Mr. JOHN REEDER, Junior,  
Mr. WILLIAM THOMAS,  
Mr. JEREMIAH JORDAN.

*For ANNE-ARUNDEL County.*

Mr. BRICE T. B. WORTHINGTON,  
Mr. THOMAS JOHNSON, Junior,  
Mr. SAMUEL CHASE.

*For CALVERT County.*

Mr. BENJAMIN MACKALL, 4th,  
Mr. YOUNG PARRAN,  
Mr. JOHN WEEMS.

*For CHARLES County.*

Mr. JOSEPH HANSON HARRISON,  
Mr. JOSIAS HAWKINS.

*For DORCHESTER County.*

Mr. WILLIAM RICHARDSON,  
Mr. WILLIAM ENNALLS,  
Mr. JOSEPH RICHARDSON.

*For BALTIMORE County.*

Mr. SAMUEL OWINGS, Junior,  
Mr. JOHN MOALE,  
Mr. GEORGE RISTEAU,  
Mr. THOMAS COCKEY DEYE.

*For CÆCIL County.*

Mr. JOHN VEAZY,  
Mr. BENJAMIN RUMSEY,  
Mr. WILLIAM BAXTER.

*For PRINCE GEORGE's County.*

Mr. JOSIAS BEALL,  
Mr. ROBERT TYLER,  
Mr. THOMAS CONTEE.

*For the City of ANNAPOLIS.*

Mr. WILLIAM PACA.

*For TALBOT County.*

Mr. JAMES LLOYD CHAMBERLAINE,  
Mr. MATTHEW TILGHMAN,  
Mr. NICHOLAS THOMAS,  
Mr. EDWARD LLOYD.

*For QUEEN-ANNE's County.*

Mr. EDWARD TILGHMAN,  
Mr. RICHARD TILGHMAN EARLE.

*For WORCESTER County.*

Mr. NEHEMIAH HOLLAND.

*For FREDERICK County.*

Mr. WILLIAM LUCKETT,  
Mr. JONATHAN HAGAR,  
Mr. THOMAS SPRIGG WOOTTON,  
Mr. CHARLES BEATTY.

A sufficient Number of Delegates to compose a House being convened at the Coffee-House, Mr. *William Paca*, a Delegate returned for the City of *Annapolis*, and Mr. *Benjamin Mackall*, a Delegate returned for *Calvert* County, attended on his Excellency to acquaint him therewith.

A

*Benedict*





2 VOTES AND PROCEEDINGS, OCTOBER 1771.

*Benedict Calvert* and *Walter Dulany*, Esqrs. of the Upper House, attended by *Dr. Upton Scott*, Clerk of the Upper House, came into the Coffee-House, and the aforesaid Delegates took the several Oaths to the Government required by Law, signed the Oath of Abjuration, repeated and signed the Test, in the Presence of the Two Gentlemen of the Upper House.

*Daniel of St. Thomas Jenifer* and *George Plater*, Esqrs. from the Upper House, acquaint the Members of this House, that the Governor requires the Attendance of the Lower House immediately in the Upper House.

The Members of the Lower House went to the Upper House. His Excellency required them to return to the Lower House and choose a Speaker.

They return, and unanimously made Choice of *Mr. Edward Tilghman*, a Delegate returned for *Queen-Anne's County*, to be their Speaker, and placed him in the Chair.

*Mr. Worthington* and *Mr. Chamberlaine* are sent to acquaint his Excellency, that this House hath made Choice of a Speaker.

*Daniel Dulany* and *George Steuart*, Esqrs. from the Upper House, acquaint the Members of this House, that the Governor requires their Attendance in the Upper House to present their Speaker.

The Members of the Lower House went to the Upper House and presented to the Governor *Mr. Edward Tilghman* as their Speaker.

His Excellency approved the Choice, and made the following Speech, viz.

*Gentlemen of the Upper and Lower Houses of Assembly,*

WHILST engaged in enacting Regulations conducive to the Welfare of the Province, you will, I hope, find the Season convenient to your private Affairs.

The State of the criminal Law, which I recommended to the Consideration of the late Assembly, permit me again to press, as an Object that deserves your most deliberate Attention.

The Provision hitherto made, for repairing and keeping in Order the publick Roads, having proved very ineffectual, let me also beg your peculiar Regard to this Subject; our Situation for Commerce has many natural Advantages, which will be diminished or improved, in Proportion to our Neglect or Care, in shortening Distances, and facilitating the Carriage of our native Produce to Market.

*Gentlemen of the Lower House,*

Nothing could be effected at the last Session, in Consequence of his Excellency the late Lord *Botetourt's* Letter, soliciting a Contribution towards defraying the necessary Expence that would attend the Erection and Maintenance of a Light-House on *Cape Henry*. I have, pursuant to the Address of the late Assembly, directed the Naval-Officers to furnish me with an Account of the Tonnage, which I shall order to be laid before you; as also a Letter from the Speaker of the House of Burgesses of *Virginia* to your Speaker, containing, as I am informed, the like Account of the Tonnage of that Province; and I must now request the Establishment of some Fund, for a Service in which the Trade of *Maryland* is so much interested.

*Gentlemen of both Houses,*

Be assured of my most cheerful Concurrence in every Measure tending to promote the real Interests of this Country, and that I shall deem myself happy, in Proportion to the Prosperity the People of this Province shall derive from my Administration.

*Mr. Speaker* (with the rest of the Members) returned to the Lower House. *Mr. Speaker* resumed the Chair.

The House proceeded to choose a Clerk, and unanimously made Choice of *Mr. John Duckett*.

ORDERED, That *Mr. Beall* and *Mr. Tyler*, do acquaint his Excellency, that this House hath made Choice of *Mr. John Duckett* to be their Clerk, and desire his Excellency's Approbation.

They return, and acquaint *Mr. Speaker* they delivered the Message, and that his Excellency signified his Approbation.

ORDERED, That *Mr. Contee* and *Mr. Wootton*, do go with *Mr. Duckett* to the Upper House to see him qualified as Clerk of this House.

They return, and acquaint *Mr. Speaker*, that they saw him take the several Oaths to the Government, sign the Oath of Abjuration, repeat and sign the Test, and take the following Oath of Office, viz. "You *John Duckett* do swear, that as Clerk of the Lower House of Assembly, you shall true Entries make, of all such Matters and Things, as by the honourable Speaker, for the Time being, and that House, shall be to you directed: The Secrets of the said House you shall not divulge, to the Prejudice of the House, or any Member thereof; but shall in all Things, as Clerk to the said House, well and truly demean yourself according to the best of your Knowledge. So help you GOD."

*Mr. John Hall*, a Delegate returned for the City of *Annapolis*, and *Mr. John Hammond*, a Delegate returned for *Anne-Arundel County*, appear in the House.

ORDERED, That *Mr. Johnson* and *Mr. Worthington*, do go with those Gentlemen to the Upper House to see them qualified.

They return, and acquaint *Mr. Speaker* they saw them qualified in the usual Manner.

The Gentlemen take their Seats in the House.

ORDERED, That his Excellency's Speech (a Copy of which having been delivered to *Mr. Speaker*) be read; and the same was read accordingly.

The House appointed *Mr. Allen Quynn* Serjeant at Arms, and *Mr. Robert Reynolds* Door-Keeper.

ORDERED, That they be qualified.

On



On Motion, the Question was put, That this House will sit, during the present Session, in the Ball-Room, and will pay for the Use of the said Room, Two Committee Rooms, and the Two Rooms adjoining, for the honourable the Upper House, Three Pounds Ten Shillings common Money per Day, at the Close of the Session, by Way of Ordinance or Bill? Resolved in the Negative.

Mr. *Paca* acquaints Mr. Speaker, that Mr. *Allen Quynn* took the several Oaths to the Government, signed the Oath of Abjuration, repeated and signed the Test, and took the following Oath, viz. "You *Allen Quynn* do swear, that you will faithfully, diligently and honestly, discharge the Office of Serjeant at Arms to the Lower House of Assembly; and that you shall not disclose or reveal the Secrets thereof. So help you GOD."

And that *Robert Reynolds* took the several Oaths to the Government, signed the Oath of Abjuration, repeated and signed the Test, and took the following Oath, viz. "You *Robert Reynolds* do swear, that you will faithfully, diligently and honestly, discharge the Office of Door-Keeper to the Lower House of Assembly; and that you shall not disclose or reveal the Secrets thereof. So help you GOD."

RESOLVED, That the Hours for Sitting for Dispatch of the publick Business during this Session, be from 9 o'Clock in the Morning until One in the Afternoon.

*The House adjourns till To-morrow Morning 9 o'Clock.*

THURSDAY, October 3, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

The House being informed, that Mr. *Thomas Wright* and Mr. *Solomon Wright*, Two Delegates returned for *Queen-Anne's County*, and Mr. *Iaac Handy*, a Delegate returned for *Somerset County*, were attending.

ORDERED, That Mr. *Earle* and Mr. *Nicholas Thomas*, do go with those Gentlemen to the Upper House to see them qualified.

They return, and acquaint Mr. Speaker they saw them qualified in the usual Manner.

The Gentlemen take their Seats in the House.

On Motion of one of the Members for *Cecil County*, that Mr. *William Ward* was duly elected a Member for that County, and that the Sheriff, by Mistake, had returned Two Indentures for Mr. *William Baxter*, and omitted to return an Indenture for Mr. *Ward*;

ORDERED, That the Sheriff immediately attend at the Bar of this House, and bring with him the Polls and the Counter-parts of the Indentures taken at the said Election.

ORDERED, That the Serjeant at Arms do forthwith serve the Sheriff of *Cecil County* with a Copy of the said Order.

ORDERED, That Mr. Speaker do issue his Warrant to the Secretary of this Province, requiring him to make out a new Writ of Election, directed to the Sheriff of *Kent County*, to elect a Delegate, to serve in this present General Assembly, in the Room of Mr. *Stephen Bordley*, late of that County, deceased.

A Petition of *Robert Henley Courts*, of *Charles County*, complaining of an undue Election of Mr. *Francis Ware* and Mr. *Josias Hawkins*, Two of the Members for that County, was read.

On a Second Reading the said Petition; ORDERED, That a Copy of the same be delivered to Mr. *Francis Ware*, or left at his Dwelling-House, by Monday next at farthest, and that an Hearing on the said Petition be had at the Bar of this House on Monday the 14th Instant.

ORDERED, That the Clerk do make out all such Summonses as may be applied for by any of the Parties.

ORDERED, That a Message be prepared to the Upper House, acquainting them with the Hours this House hath appointed for their Sitting for the Dispatch of the publick Business during this Session.

ORDERED, That the following Rules be observed during this Session, viz.

- I. That no Member of the House use any reviling Speeches, or name any Member by his proper Name, but shall use some other Distinction, as, *The Gentleman who spoke last*, or the like.
- II. That no Member speak above once on any Debate, without License of the House declared by the Speaker; and, if Two Persons or more, shall rise up together, the Speaker shall appoint who shall speak first; and no Member shall interrupt any other until the Gentleman speaking hath ended.
- III. That none shall deliver his Opinion, or speak to any Bill or Debate, unless he shall stand up and reverently direct his Speech to the Speaker.
- IV. That every Bill proposed by the House shall be read Two several Days before it is sent to the Upper House, and once after before it be engrossed; and that between every Reading One Day shall be intermitted; and that on that Time the Bill shall be laid on the Table for the Perusal of all the Members, unless, on very urgent Occasions, Mr. Speaker, with the Consent of the House, shall dispense therewith; and then One Bill, being read Twice at One Sitting, shall be as sufficient as if read several Days, when so entered in the Clerk's Journal.
- V. That no Person come into the House of Assembly, while the same is sitting, with Sword or other Weapon, upon Penalty of such Fine as shall be imposed on them by the Speaker, at the Discretion of the House.

VI. That



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- VI. That if any Member, bound to attend this Assembly, shall be absent at the Hours and Place appointed, after the Speaker and Twelve of the Members are met, according to the Order for Sitting, shall be fined according to the Discretion of the Speaker, not exceeding Five Shillings for any Offence, unless upon such Excuse as the Speaker shall admit of.
- VII. All Misdemeanors which shall happen in the House shall be censured or fined in the House.
- VIII. That no Bill shall be read, at any Time during this Session, till all the Members in Town shall be called in, except on some Excuse to be admitted by the Speaker.
- IX. That if any Member of this House do depart, without Leave from the honourable Speaker and the House, such Member shall forfeit all his preceding Allowances due to him for his Attendance that Session.

The following Resolves, viz.

RESOLVED BY THE HOUSE, That the Members, who shall be appointed as Members of the Committee of Aggrievances, have likewise the Character of a Committee for Courts of Justice; and that that Character, and the Duty of such Committee, be annexed to the said Committee of Aggrievances, as a standing Part of their Duty: And, that it be an Instruction to the said Committee of Courts of Justice, that they observe the Nature of all the Commissions to the several Courts of Judicature within this Province; and that they especially observe any Alterations that may at any Time happen, by accidental Omission or otherwise therein; and particularly relating to such Words therein, as require the several Judges and Justices to hear, try and determine, according to the Laws, Statutes, Ordinances, and reasonable Customs of *England* and of this Province, or to such other Words as have Relation thereto; and that they shall immediately make Report to the House, of any Alteration that shall at any Time happen in such Commission; and likewise, to have Regard, as near as may be, to observe wherein they differ from the Forms of the several Sorts of Commissions to the Judges and Justices in *England*; and also, to enquire and report, whether it appears that the several Magistrates in this Province have been duly qualified agreeable to Law.

RESOLVED ALSO, That this Province is not under the Circumstances of a conquered Country; that if it were, the present Christian Inhabitants thereof, would be in the Circumstances, not of the Conquered, but of the Conqueror; it being a Colony of the *English* Nation, encouraged by the Crown to transplant themselves hither, for the Sake of improving and enlarging its Dominions; which, by the Blessing of GOD, upon their Endeavours, at their own Expence and Labour, has been in a great Measure obtained: And 'tis unanimously RESOLVED, That whosoever shall advance, that his Majesty's Subjects, by such their Endeavours and Success, have forfeited any Part of their *English* Liberties, are not Wellwishers to the Country, and mistake its happy Constitution.

RESOLVED ALSO, That if there be any Pretence of Conquest, it can be only supposed against the native Indian Infidels; which Supposition cannot be admitted, because the Christian Inhabitants purchased great Part of the Land they at first took up, from the Indians, as well as from the Lord Proprietary, and have ever since continued in an amicable Course of Trade with them; except some partial Outrages and Skirmishes, which never amounted to a general War, much less to a general Conquest, the Indians yet enjoying their Rights and Privileges of Treaties and Trade with the *English*.

RESOLVED FURTHER, That this Province hath always hitherto had the Common Law, and such general Statutes of *England*, as are securitative of the Rights and Liberties of the Subject, and such Acts of Assembly as were made in the Province to suit its particular Constitution, as the Rule and Standard of its Government and Judicature, such Statutes and Acts of Assembly being subject to the like Rules of Common Law, or equitable Construction, as are used by the Judges in construing Statutes in *England*; which happy Rules have, by his Majesty, and his royal Ancestors, and also by his Lordship, and his noble Ancestors, or some of them, been hitherto approved, by having the Commissions of Judicature to include Directions of that Nature, to the several judicial Magistrates; unless those Words have at any Time been casually or carelessly omitted by the Officers in this Province, that drew such Commissions.

RESOLVED, That the lvyng and taking the Sum of Twelve-pence Sterling per Hoghead, by the Right Honourable the Lord Proprietary of this Province, on all Tobacco exported out of the same, under Pretence and Colour of the Act of 1704, is not warranted by Law.

RESOLVED, *Nemine contradicente*, That if the above Act of 1704, had been in Force from the Restoration of the Government by the Crown, to the Right Honourable the Lord Proprietary, to this Time; yet the Sum of Three-pence Sterling, Part of the said Twelve-pence Sterling, agreeable to the plain Construction of the above-mentioned Act of 1704, and her late Majesty Queen *Anne's* Instructions to her Governor here, when the said Act was in Force, ought to be applied towards the purchasing of Arms and Ammunition, for the Defence of this Province.

Were read, and unanimously approved of.

The following Message, viz.

By the LOWER HOUSE of ASSEMBLY, October 3, 1771.

May it please your HONOURS,

THIS House hath appointed from Nine o'Clock in the Morning until One in the Afternoon for its Sitting every Day during this Session for the Dispatch of the Publick Business.

Signed by Order,

JOHN DUCKETT, Cl. Lo. Ho.

Was sent to the Upper House by Mr. Moale and Mr. Harrison.

On



The Report of the 20th November last, which was referred to this Day, was read, and referred for Consideration on Thursday next.

ORDERED, That Mr. Tilghman, Mr. Chase, Mr. Hall, Mr. So. Wright, and Mr. Hammond, be a Committee of Elections and Privileges. Mr. Beall, Mr. Tyler, Mr. Harrison, Mr. Mackall, Mr. Worthington, Mr. Chamberlaine, and Mr. Johnson, a Committee of Grievances and Courts of Justice, and they have Power to send for Persons, Papers and Records.

ORDERED, That the said Committee do forthwith publish in the *Maryland Gazette* their Hour and Place of Sitting during this Session.

ORDERED, That Mr. Thomas Wright, Mr. W. Richardson, Mr. Earle, Mr. Deye, and Mr. Chamberlaine, be a Committee of Accounts.

ORDERED, That Mr. Contee, Mr. Parran, Mr. Jordan, Mr. Rumsey, Mr. Ennalls, Mr. Worthington, and Mr. Beall, be a Committee to inspect the Office and Proceedings of the Commissioners for emitting Bills of Credit.

ORDERED, That a Message be prepared to the Upper House acquainting them therewith.

ORDERED, That Mr. Tyler, Mr. Mackall, Mr. Harrison, Mr. W. Thomas, Mr. Handy, Mr. So. Wright, and Mr. Ennalls, be a Committee to inspect into the several Publick Offices, and report to the House the State and Condition of them.

ORDERED, That his Excellency's Speech be read a Second Time, and it was read accordingly.

ORDERED, That an Address be prepared in Answer thereto.

ORDERED, That Mr. Tilghman, Mr. Hall, Mr. Paca, Mr. Chase, Mr. Johnson, Mr. Hammond, Mr. Rumsey, and Mr. Lloyd, do prepare and bring in the same.

ORDERED, That Mr. Paca do acquaint the Reverend Mr. Boucher, that he is desired by this House, to read divine Service every Morning during this Session, at Three Quarters after Eight of the Clock.

The following Message, viz.

By the LOWER HOUSE of ASSEMBLY, October 3, 1771.

May it please your HONOURS,

THIS House hath appointed Messieurs Contee, Parran, Jordan, Rumsey, Ennalls, Worthington, and Beall, to join One or more of the Members of your House, as a Committee to inspect the Office and Proceedings of the Commissioners for emitting Bills of Credit.

Signed by Order,

JOHN DUCKETT, Cl. Lo. Ho.

Was sent to the Upper House by Mr. Ennalls and Mr. Contee.

The House appoint Mr. Thomas Brooke Hodgkin, and Mr. William Wright, Clerks to the several Committees.

ORDERED, That they be qualified.

Mr. Speaker reports to the House the following Certificate.

ANNE-ARUNDEL I HEREBY certify, that on the 3d Day of October, 1771, came Thomas County, ss. Brooke Hodgkin before me the Subscriber, one of the Justices of the Peace of the said County, and took the several Oaths to the Government required by Law, subscribed the Oath of Abjuration, repeated and signed the Test, and took the following Oath, viz. "I Thomas Brooke Hodgkin do swear, that I will true Entries make of all such Matters and Things as shall be to me directed by any Committee of the Lower House of Assembly, for whom I shall act as Clerk, and that I will not divulge the Secrets of the said House, or of any Committee thereof, but will in all Things well and truly demean myself according to the best of my Skill and Knowledge."

" R. GHISELIN."

The House adjourns till To-morrow Morning 9 o'Clock.

F R I D A Y, October 4th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

Mr. Speaker communicates to the House a Letter from the Speaker of the House of Burgesses of Virginia, accompanied with an Account of the Tonnage for *Rappahanock*; an Account of the Tonnage for South *Patowmack*; an Account of Tonnage for *York-River*; an Account of Tonnage for the Upper District of *James-River*; and an Account of the Tonnage for the Lower District of *James-River*.

ORDERED, That the said Letter be read, and it was read accordingly.

ORDERED, That the said Accounts do lie on the Table for the Perusal of the Members.

Mr. Speaker reports to the House the following Certificate.

ANNE-ARUNDEL I HEREBY certify, that on the 4th Day of October, 1771, came William County, ss. Wright before me the Subscriber, one of the Justices of the Peace for the said County, and took the several Oaths to the Government required by Law, subscribed the Oath of Abjuration, repeated and signed the Test, and took the following Oath, viz. "I Wil-

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"I am Wright do swear, that I will true Entries make of all such Matters and Things as shall be to me, directed by any Committee of the Lower House of Assembly, for whom I shall act as Clerk, and that I will not divulge the Secrets of the said House, or of any Committee thereof, but will in all Things well and truly demean myself according to the best of my Skill and Knowledge.

"R. GHISELIN."

Mr. Saint George Peale is appointed a Committee Clerk.

ORDERED, That he be qualified.

The House being informed, that Mr. William Smallwood, a Delegate returned for Charles County, was attending at the Door; ORDERED, That Mr. Harrison and Mr. Hawkins do go with that Gentleman to the Upper House to see him qualified. They return and acquaint Mr. Speaker they saw him qualified in the usual Manner. The Gentleman takes his Seat in the House.

Information being given, by a Gentleman from the Committee of Accounts, to the House, that no Journal of Accounts, nor any Duplicate thereof, lay before the said Committee, but that the Journal remained in the Upper House ever since the End of the first Session in November last: A Motion was thereupon made, that a Message be sent to the Upper House, desiring them to send back the Journal.

ORDERED, That Mr. Hall and Mr. Hammond do prepare and bring in the same.

The following Message

By the LOWER HOUSE of ASSEMBLY, October 4th, 1771.

May it please your HONOURS,

WE are desirous of putting the Claims against the Publick into such a Channel as that they may be paid off; and therefore request your Honours would send back the Journal of Accounts, remaining with you ever since the End of the first Session in November last, that we may make such Additions thereto as we may think just and reasonable.

Signed by Order,

JOHN DUCKETT, Cl. Lo. Ho.

Being prepared, was sent to the Upper House by Mr. N. Thomas and Mr. Chamberlaine.

ORDERED, That Mr. Chase, Mr. Handy, and Mr. N. Thomas, be a Committee to enquire what Laws will expire with the Close of this Session, and make Report thereof to the House.

Mr. Speaker reports to the House the following Certificate, viz.

ANNE-ARUNDEL I HEREBY certify, that on the 4th Day of October, 1771, came Saint George Peale before me the Subscriber, one of the Justices of the Peace of the said County, and took the several Oaths to the Government required by Law, and took the following Oath, viz. "I Saint George Peale do swear, that I will true Entries make of all such Matters and Things as shall be to me directed by any Committee of the Lower House of Assembly, for whom I shall act as Clerk, and that I will not divulge the Secrets of the said House, or of any Committee thereof, but will in all Things well and truly demean myself according to the best of my Skill and Knowledge."

R. GHISELIN."

Daniel Dulany, Esq; from the Upper House, delivers to Mr. Speaker the following Message.

By the UPPER HOUSE of ASSEMBLY, October 3d, 1771.

GENTLEMEN,

THIS House hath appointed Benedict Calvert, and Walter Dulany, Esquires, to join the Members named by your House, in a Committee to inspect the Office and Proceedings of the Commissioners for emitting Bills of Credit.

Signed by Order,

U. SCOTT, Cl. Up. Ho.

Walter Dulany, Esq; from the Upper House, delivers to Mr. Speaker Three Journals of Accounts, marked 1768, 1769, 1770.

Mr. Tilghman brings in and delivers to Mr. Speaker, an Address to his Excellency; which was read, approved of, and ordered to be engrossed.

Mr. Tilghman brings in and delivers to Mr. Speaker, the following engrossed Address.

To his Excellency ROBERT EDEN, Esq; Governor and Commander in Chief in and over the Province of Maryland.

The humble ADDRESS of the House of DELEGATES.

May it please your EXCELLENCY,

WE his Majesty's most dutiful and loyal Subjects, the Delegates of the Freemen of Maryland, in General Assembly convened, return your Excellency Thanks for your kind Speech at the Opening of this Session, and for the Hopes you are pleased to express that we shall find the Season convenient to our private Affairs.

We shall at all Times pay a respectful Regard to your Excellency's Recommendations, and as soon as we can, shall take under our Consideration the several Matters you now propose, and endeavour



endeavour to effect what may appear to us most conducive to the Welfare of this Province.—Be pleased to accept our grateful Acknowledgments for the Assurance you have now given us of a most cheerful Concurrence in every Measure tending to promote the real Interests of this Country, and that you shall deem yourself happy in Proportion to the Prosperity the People of this Province shall derive from your Administration.

Which was read and assented to, and signed, by Order of the House, by the Honourable Speaker.

ORDERED, That Mr. *Smallwood* and Mr. *Contee* do acquaint his Excellency, that this House hath prepared an Address to be presented to him, and desires to know when and where he will be pleased to receive it. They return and acquaint Mr. Speaker, the Governor signified he would receive the Address immediately in the Council Room.

ORDERED, That Mr. *Tilghman* and Six more do present the Address to his Excellency.

On a Question, That this House will sit during the present Session in the Ball-Room, and will allow on the Journal of Accounts and pay for the Use of the said Room, Two adjoining Apartments, and the Revenue-Office for the Upper House and the Governor, the Sum of Four Pounds common Money *per Day*; the Question was put, Whether that Question be put? Resolved in the Affirmative.

The Question being put, it was resolved in the Affirmative.

For the A F F I R M A T I V E.

Messieurs	{	Reeder,	Parran,	Owings,	Contee,	Holland,	23.
		Jordan,	Weems,	Moale,	Hall,	Hagar,	
		Johnson,	Hawkins,	Veazy,	Paca,	Beatty.	
		Chafe,	Ennalls,	Baxter,	N. Thomas,		
		Mackall,	Jo. Richardson,	Tyler,	Lloyd,		

For the N E G A T I V E.

Mess.	{	W. Thomas,	Harrison,	Risteau,	Chamberlaine,	T. Wright.	15.
		Worthington,	Smallwood,	Deye,	Tilghman,	So. Wright,	
		Hammond,	Handy,	Beall,	Earle,	Wootton.	

On Motion, the Question was put, That the Order of this Day for the Appointment of a Committee to enquire what Rooms may be had convenient for this House and the several Committees thereof to transact the Publick Business, and the Report made by the said Committee, be expunged? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messieurs	{	Reeder,	Parran,	Owings,	Contee,	Holland,
		Jordan,	Weems,	Moale,	Hall,	Hagar,
		Johnson,	Hawkins,	Veazy,	Paca,	Beatty.
		Chafe,	Ennalls,	Baxter,	N. Thomas,	
		Mackall,	Jo. Richardson,	Tyler,	Lloyd,	

For the N E G A T I V E.

Mess.	{	W. Thomas,	Harrison,	Risteau.	Chamberlaine;	So. Wright,
		Worthington,	Smallwood,	Deye,	Tilghman,	Wootton,
		Hammond,	Handy,	Beall,	Earle,	

*The House adjourns till To-morrow Morning 9 o'Clock, and then to meet at the Ball-Room.*

S A T U R D A Y, October 5th, 1771.

THE House met at the Ball-Room according to Adjournment. All Members present as on Yesterday. The Proceedings of Yesterday were read.

Mr. *Rumsey* being indisposed, hath Leave to go home for the Recovery of his Health. His Excellency communicates to Mr. Speaker the following Message.

*Gentlemen of the Lower House of Assembly,*

I AM much pleased with the Assurances in your Address, of the respectful Regard you shall at all Times pay to my Recommendations, which shall never point any Thing to your Consideration, that does not strike me as an Object really conducive to the Welfare of the Province, and the Happiness of the People. ROB. EDEN.

Which was read and Ordered to lie on the Table.

Mr. *Hall* from the Committee of Elections and Privileges, brings in and delivers to Mr. Speaker the following Report.

By



8 VOTES AND PROCEEDINGS, OCTOBER 1771.

By the COMMITTEE of Elections and Privileges, October 5th, 1771.

YOUR Committee having inspected the Writs directed to the several Sheriffs for electing Deputies and Delegates to serve in this General Assembly, and the Returns of the said Writs, do find, That Messieurs *John Reeder, jun. Thomas Key, William Thomas, and Jeremiah Jordan*, Delegates of *St. Mary's County*, are duly returned.—That Messieurs *Josias Hawkins, Francis Ware, William Smallwood, and Joseph Hanson Harrison*, Delegates of *Charles County*, are duly returned.—That Messieurs *John Weems, Charles Grahame, Young Parran, and Benjamin Mackall the Fourth*, Delegates of *Calvert County*, are duly returned.—That Messieurs *Brice Thomas Beale Worthington, Thomas Johnson, jun. Samuel Chase, and John Hammond*, Delegates of *Anne-Arundel County*, are duly returned.—That Messieurs *John Hall, and William Paca*, Delegates of the City of *Annapolis*, are duly returned.—That Messieurs *Edward Tilghman, Richard Tilghman Earle, Thomas Wright, and Solomon Wright*, Delegates of *Queen-Anne's County*, are duly returned.—That Messieurs *Edward Lloyd, James Lloyd Chamberlaine, Matthew Tilghman, and Nicholas Thomas*, Delegates of *Talbot County*, are duly returned.—That Messieurs *Henry Steele, William Ennalls, Joseph Richardson, and William Richardson*, Delegates of *Dorchester County*, are duly returned.—That Messieurs *Levin Gale, Littleton Dennis, Isaac Handy, and John Adams*, Delegates of *Somerset County*, are duly returned.—That Messieurs *Thomas Ringgold, Richard Gresham, Stephen Bordley, and Robert Buchanan*, Delegates of *Kent County*, are duly returned.—That Messieurs *Nehemiah Holland, John Purnell Robins, William Allen, and Peter Chaille*, Delegates of *Worcester County*, are duly returned.—That only one Indenture is returned for the Delegates of *Baltimore County*, in which is inserted the Names of Messieurs *Samuel Owings, jun. John Moale, George Ristean, and Thomas Cockey Deye*.—That Messieurs *Joseph Sim, Robert Tyler, Josias Beall, and Thomas Contee*, Delegates of *Prince George's County*, are duly returned.—That Messieurs *John Veazy, and Benjamin Rumsey*, Delegates of *Cecil County*, are duly returned; and that Two Indentures are returned and signed by the Electors and Sheriff of the said County for Mr. *William Baxter*.—That Messieurs *Jonathan Hagar, William Luckett, Charles Beatty, and Thomas Sprigg Wootton*, Delegates of *Frederick County*, are duly returned.

Your Committee beg Leave to report to the Honourable House, that they are informed, and believe, that Mr. *Jonathan Hagar*, a Member returned for *Frederick County*, is not a natural born Subject, nor descended from a natural born Subject; that he came into America, and was naturalized some Time before the said Election.

All which is submitted to the Consideration of the Honourable House.

Signed by Order,

THOMAS B. HODGKIN, CL.

ORDERED, That the said Report be read, and it was read accordingly.

ORDERED, That the said Report be read a Second Time, and it was read accordingly.

It appearing to this House by the said Report, that only one Indenture is returned for the Delegates of *Baltimore County*, in which is inserted the Names of Messieurs *Samuel Owings, jun. John Moale, George Ristean, and Thomas Cockey Deye*; ORDERED, That *John Robert Hollyday*, Sheriff of that County, immediately attend at the Bar of this House, and bring with him the Polls and the Counter Parts of the Indentures taken at the said Election.

ORDERED, That the Serjeant at Arms do forthwith serve the Sheriff of *Baltimore County* with a Copy of the above Order.

RESOLVED, That this House will, on Tuesday next, at the Sitting of the House, take into Consideration that Part of the said Report relative to Mr. *Jonathan Hagar*.

Mr. *Tilghman* hath Leave of Absence.

The House adjourns till Monday Morning 9 o'Clock.

M O N D A Y, October 7th, 1771.

THE House met. All Members present as on Saturday, except Mr. *Tilghman*, Mr. *Rumsey*, and Mr. *Weems*. The Proceedings of Saturday were read.

The House being informed, that Mr. *William Allen*, Mr. *Peter Chaille*, and Mr. *John Purnell Robins*, Three Delegates returned for *Worcester County*; Mr. *Littleton Dennis*, a Delegate returned for *Somerset County*, and Mr. *Henry Steele*, a Delegate returned for *Dorchester County*, were attending at the Door; ORDERED, That Mr. *Ennalls* and Mr. *Handy* do go with those Gentlemen to the Upper House to see them qualified. They return and acquaint Mr. Speaker they saw them qualified in the usual Manner. The Gentlemen take their Seats in the House.

The House being informed, that Mr. *Henry Allen*, Deputy Sheriff of *Cecil County*, attended at the Door, he was called in, and at the Bar presented to the House, agreeable to the Order of Thursday last, the Polls taken at the last Election of Delegates for that County, by which it appeared, that Mr. *William Ward* was elected a Delegate for that County: He also produced Two Indentures for Mr. *William Ward*, but none for Mr. *William Baxter*.

ORDERED, That the said Deputy Sheriff amend the Return of Delegates for *Cecil County*, by taking off One of the Two Indentures for Mr. *William Baxter* annexed to the Writ of Election, and annexing instead thereof One of the Two Indentures for Mr. *William Ward*; which being done, the Sheriff was ordered to withdraw.

ORDERED, That the Sheriff of *Cecil County* do pay to the several Officers of this House, the Fees arising due upon the said Order of Thursday last.

ORDERED,



ROBERT EDEN, Esq; GOVERNOR.

9

ORDERED, That Mr. Beall, and Mr. Johnson, be a Committee to tax the Fees arising due upon the said Order of Thursday last.

Mr. Beall from the said Committee, brings in and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to tax the Fees arising due upon the Order of this House of Thursday last, respecting the Sheriff of Cecil County, October 7, 1771.

IN Obedience to the Order of the Honourable House, your Committee have proceeded to tax the Fees arising due upon the said Order of Thursday last, as follows.

To the Clerk for Copy of the same Order to be served on the Sheriff, - 0 : 3 : 0

To the Serjeant for a Messenger to Cecil, and serving the same, - - - 4 : 19 : 3

5 : 2 : 3

All which is humbly submitted to the Consideration of the Honourable House.

Signed by Order,

W. WRIGHT, Cl.

Which was read, and the House concurs therewith.

Mr. Allen was again called to the Bar of the House, and informed by Mr. Speaker, by Order of the House, that he was discharged from any further Attendance.

RESOLVED, That this House will, on Wednesday next, take into Consideration his Excellency's Speech at the Opening of this Session.

Mr. Allen Quynn informs the House, by Letter directed to the honourable Speaker, that he is unable, through Sickness, to attend his Duty as Serjeant at Arms. The House thereupon appoint Mr. William Goldsmith Serjeant at Arms during the Illness of Mr. Quynn.

ORDERED, That he be qualified.

The House being informed that Mr. William Ward, a Delegate returned for Cecil County was attending at the Door: ORDERED, That Mr. Veazy and Mr. Holland do go with that Gentleman to the Upper House to see him qualified.

They return and acquaint Mr. Speaker they saw him qualified in the usual Manner.

The Gentleman takes his Seat in the House.

The House adjourns till To-morrow Morning 9 o'Clock.

T U E S D A Y, October 8, 1771.

THE House met. All Members present as on Yesterday. The Proceedings of Yesterday were read. Mr. Weems appeared in the House.

The House being informed that Mr. Joseph Sim, a Delegate returned for Prince George's County was attending at the Door: ORDERED, That Mr. Beall and Mr. Tyler do go with that Gentleman to the Upper House to see him qualified.

They return and acquaint Mr. Speaker they saw him qualified in the usual Manner.

The Gentleman takes his Seat in the House.

The House being informed that Mr. Charles Grahame, a Delegate returned for Calvert County, and Mr. Richard Gresham, a Delegate returned for Kent County were attending at the Door: ORDERED, That Mr. Parran and Mr. Weems do go with those Gentlemen to the Upper House to see them qualified.

They return and acquaint Mr. Speaker they saw them qualified in the usual Manner.

The Gentlemen take their Seats in the House.

ORDERED, That the Order of the Day for taking into Consideration that Part of the Report from the Committee of Elections and Privileges, relative to Mr. Jonathan Hagar, be read; and the same being read accordingly, the House proceeded to take the same into Consideration, and permitted Mr. Hagar, on his Prayer, to be heard by his Counsel.

The Counsel appeared, and being heard he withdrew.

Then the House was moved, that the Stat. of 12 & 13 of W. III. Cap. 2, entitled, *An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject*, be read; and it was read accordingly.

The House was moved, that the Stat. of 1 Geo. I. Cap. 4. entitled, *An Act to explain the Act made in the Twelfth Year of the Reign of King William III. entitled, An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject*, be read; and it was read accordingly.

The House was moved, that an Act of Assembly of this Province, entitled, *An Act directing the Manner of electing and summoning Delegates and Representatives, to serve in succeeding Assemblies, and for ascertaining the Expences of the Counsellors, Delegates of Assembly, and the Commissioners of the Provincial and County Courts of this Province*, made at a Session of Assembly, begun and held at the City of Annapolis the 17th Day of July 1716, be read; and it was read accordingly.

The House was moved, that the Stat. of 13. Geo. II. Cap. 7. entitled, *An Act for naturalizing such foreign Protestants, and others therein mentioned, as are settled or shall settle in any of his Majesty's Colonies in America*, be read; and it was read accordingly.

The House was moved, that the Resolves of the Lower House of Assembly, of the 18th October 1753, be read; and they were read accordingly.

The House was moved, that an Act made in the 22d Year of Geo. II. Cap. 45. entitled, *An Act for the further Encouragement of the Whale Fishery, and for continuing such Laws as are therein mentioned relating thereto; and for the Naturalization of such foreign Protestants as shall serve, for the*



10 VOTES AND PROCEEDINGS, OCTOBER 1771.

*Time therein mentioned, on board such Ships as shall be fitted out for the said Fishery; be read; and it was read accordingly.*

Then the House took the several Statutes, the Act of Assembly, and the Resolves above-mentioned, into Consideration; and after some Debate thereon, Mr. Hagar withdrew, and Mr. Speaker, by the Direction of the House, put the following Question; "That *Jonathan Hagar*, returned as a Representative for *Frederick* County, not being a natural born Subject, nor descended from a natural born Subject, but naturalized in the Year 1747, since the Stat. of 13 Geo. II. agreeable to said Stat. long before said Election; hath been a Resident of this Province ever since, and hath a Freehold of Fifty Acres of Land, be eligible?" Resolved in the Negative.

For the N E G A T I V E.

Messieurs	{	Reeder,	Parran,	Baxter,	Sim,	T. Wright,
		W. Thomas,	Grahame,	Ward,	Chamberlaine,	So. Wright,
		Jordan,	Ennalls,	Beall,	N. Thomas,	Chaille,
		Worthington,	Moale,	Tyler,	Lloyd,	Allen.
		Chafe,	Veazy,	Contee,	Earle,	

For the A F F I R M A T I V E.

Messieurs	{	Gresham,	Harrison,	W. Richardson,	Deye,	Luckett,
		Johnson,	Hawkins,	Jo. Richardson,	Hall,	Wootton,
		Hammond,	Smallwood,	Steele,	Paca,	Beatty.
		Mackall,	Handy,	Owings,	Holland,	
		Weems,	Dennis,	Ristean,	Robins,	

In Consequence of the foregoing Resolution, Mr. Hagar was called in, and Mr. Speaker, by the Directions of the House, acquaints him that he is discharged from any further Attendance on this House as a Member thereof.

Mr. Lloyd and Mr. Mackall have Leave of Absence.

*The House adjourns till To-morrow Morning 9 o'Clock.*

W E D N E S D A Y, October 9th, 1771.

THE House met. All Members present as on Yesterday, except Mr. Lloyd and Mr. Mackall. The Proceedings of Yesterday were read.

Mr. Tilghman appeared in the House.

Mr. N. Thomas hath Leave of Absence.

ORDERED, That Mr. Speaker do issue his Warrant to the Secretary of this Province, requiring him to issue a new Writ of Election to the Sheriff of *Frederick* County, to elect a Delegate to serve in this present Session of Assembly, in the Stead of Mr. *Jonathan Hagar*, whose Seat is declared vacant.

ORDERED, That the Order of the Day for taking into Consideration his Excellency's Speech at the Opening of this Session, be read; and it was read accordingly.

ORDERED, That his Excellency's Speech be read; and it was read accordingly.

Upon Consideration of that Part of his Excellency's Speech relative to the criminal Law; RESOLVED, That it is the Opinion of this House that there is no Necessity for going into a Revival of the whole criminal Law, either Common or Statute Law.

RESOLVED FURTHER, That an Address be prepared, requesting his Excellency to point out any particular Defects that may have occurred to him, or any Inconveniencies he hath experienced, from the Want of Precision on that Subject, that the House may remedy such Defects, or explain the Law where found uncertain.

ORDERED, That Mr. Hall, Mr. Tilghman, Mr. Hammond, Mr. Chafe, and Mr. Paca, do prepare and bring in such Address.

Upon Consideration of that Part of the Governor's Speech relative to the Publick Roads, the Question was put, That a Committee be appointed to enquire into the Provision made by the Laws of this Province for the making, repairing and keeping in Order the Publick Roads, and report their Opinion to the House thereupon; and also what further Provision they may think necessary? Resolved in the Affirmative.

ORDERED, That Mr. Tilghman, Mr. Chafe, Mr. Paca, Mr. Moale, Mr. Grahame, Mr. Dennis, Mr. Handy, and Mr. Baxter, be a Committee for that Purpose.

ORDERED, That the Resolves of the Lower House of Assembly of the 19th of October last, relative to the erecting a Light-House on *Cape-Henry*, be read, and they were read accordingly: Upon Consideration whereof, and of that Part of the Governor's Speech, relative to the erecting a Light-House on *Cape-Henry*; ORDERED, That the same be referred for further Consideration, until all the Papers mentioned in the said Resolves of the 19th of October last be laid before this House.

The House being informed, that Mr. *John Robert Hollyday*, Sheriff of *Baltimore* County, attended at the Door, he was called in, and at the Bar presented to the House, agreeable to the Order of Saturday last, the Polls taken at the last Election of Delegates for that County, by which it appeared, that Messieurs *Samuel Owings, jun. John Moale, George Ristean, and Thomas Cockey*



*Cockey Deye*, were duly elected Delegates for that County: He also produced Indentures taken at the said Election for the said Gentlemen, signed by the Sheriff and Electors of that County.

ORDERED, That the said Sheriff amend the Return of the Delegates for *Baltimore County*, by taking off the Indenture containing the Names of those Gentlemen annexed to the Writ of Election, and annexing instead thereof the several Indentures taken for those Gentlemen; which he did at the Table, and then was ordered to withdraw.

ORDERED, That the Sheriff of *Baltimore County* be admonished by the Speaker, for his Neglect of Duty in not making a proper Return, and that he be discharged upon Payment of the Fees arising due to the several Officers of this House upon the said Order of Saturday last.

ORDERED, That Mr. *Beall*, Mr. *Tilghman*, and Mr. *Chase*, be a Committee to tax the Fees arising due upon the said Order of Saturday last.

Mr. *Beall* from the said Committee, brings in and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to tax the Fees arising due upon the Order of Saturday last, in Relation to the Sheriff of *Baltimore County*, October 9, 1771.

YOUR Committee, in Obedience to the Order of the Honourable House, have proceeded to tax the several Fees arising due on the above Order, as follows.

To the Clerk for a Copy of the same Order,	-	-	-	-	-	0	3	0
To the Serjeant for Expence of a Messenger to <i>Baltimore County</i> , and serving the said Order on the Sheriff,	-	-	-	-	-	3	18	11
						4	1	11

Which is submitted to the Consideration of the Honourable House.

Signed by Order,

THOMAS B. HODGKIN, Cl.

The Sheriff of *Baltimore County* was again called in, and admonished by Mr. Speaker agreeable to the above Order, and then discharged.

Mr. Speaker laid before the House, Two Letters from Mr. *Robert Buchanan*, a Delegate for *Kent County*, desiring the House to excuse him from Attendance, on Account of the Indisposition of his Family. The House accepts the Excuse.

ORDERED, That Mr. *Chase*, Mr. *Paca*, and Mr. *Dennis*, be added to the Committee of Grievances and Courts of Justice.

On Motion, ORDERED, That Leave be given to bring in a Bill for vesting in such foreign Protestants as are now naturalized, or shall be hereafter naturalized in this Province, all the Rights and Privileges of natural born Subjects; and that Mr. *Wootton*, Mr. *Luckett*, Mr. *Hammond*, Mr. *Hall*, Mr. *Chase*, and Mr. *Beatty*, do prepare and bring in the same.

ORDERED, That Mr. *Grahame* be added to the Committee appointed to inspect the Office and Proceedings of the Commissioners for emitting Bills of Credit.

ORDERED, That Mr. *Steele* be added to the Committee appointed to inspect the Publick Offices, &c.

The House adjourns till To-morrow Morning 9 o'Clock.

## T H U R S D A Y, 10th October, 1771.

THE House met. All Members present as on Yesterday, except Mr. *N. Thomas*, Mr. *Worthington*, and Mr. *Johnson*. The Proceedings of Yesterday were read.

ORDERED, That the Order of the Day for taking into Consideration the Report from the Committee of Grievances of the 20th November last, be read, and it was read accordingly.

ORDERED, That the said Report be read, and it was read accordingly.

ORDERED, That the Account of *John Frederick Augustus Priggs*, against *John Lowe*, jun. annexed to the said Report, be read, and it was read accordingly.

ORDERED, That *John Frederick Augustus Priggs*, Deputy Surveyor of *Prince George's County*, *Theophilus Hanson*, late Deputy Surveyor of *Charles County*, and *Arnold Elzey*, Deputy Surveyor of *Somerset County*, attend at the Bar of this House on Monday the Twenty-first Instant, to answer for charging and receiving from the People of this Province, Fees illegal and oppressive, and not warranted by the late Regulation of Fees, or any Law of this Province, and bring with them any Instructions or Orders they may have from Time to Time received from the Surveyor-General, relative to the Execution of their respective Offices of Deputy Surveyors.

ORDERED, That the Clerk of this House do immediately make out and deliver to the Serjeant at Arms attending this House, a Copy of the above Order.

ORDERED, That the Serjeant at Arms attending this House, do forthwith serve the above named *John Frederick Augustus Priggs*, *Theophilus Hanson*, and *Arnold Elzey*, with a Copy of the said Order.

ORDERED, That the Order of the Day for taking into Consideration the Petition of *Robert Dick*, and others, which was referred from last Session to this Day, be read, and it was read accordingly.

ORDERED, That the same be taken into Consideration on Tuesday the 15th Instant.

Mr. *Beall* from the Committee of Grievances and Courts of Justice, brings in and delivers to Mr. Speaker the following Report, Order and Letter.

By



12 VOTES AND PROCEEDINGS, OCTOBER 1771.

By the COMMITTEE of AGGRIEVANCES and COURTS of JUSTICE, October 10th, 1771.

**Y**OUR Committee humbly beg Leave to report to the Honourable House, that the Fees of several of the Officers and Ministers of this Province, their deputed Ministers and Servants, are in themselves, as now paid, excessive, great and oppressive to the Subject, and that the said Fees are under no Regulation of any Law of this Province.

That your Committee were informed, that several Officers do charge and receive Fees for Services performed by them in their respective Offices, under and by Virtue of some Proclamation issued and published in the Name of his Excellency as Lieutenant-General and Chief Governor of this Province, and in Consequence of the said Information made the Order, a Copy whereof is hereunto annexed, and received from Mr. U. Scott, Clerk of his Lordship's Honourable Council of State, his Answer, also hereunto annexed, and submit the same to the Consideration of the Honourable House.

Signed by Order,

W. WRIGHT, Cl.

By the COMMITTEE of AGGRIEVANCES and COURTS of JUSTICE, Oct. 7, 1771.

**O**RDERED, That the Clerk of the Council make out, and deliver to the said Committee, a Copy of the Records or Minutes of the Council of all Orders and Proceedings of his Lordship's honourable Council of State, made since the last Session of Assembly, relative to the Fees of all or any of the Officers in this Province.

Signed by Order,

WILLIAM WRIGHT, Cl.

GENTLEMEN,

October 8, 1771.

**Y**OUR Order "That the Clerk of the Council make out, and deliver to the Committee of Aggrievances and Courts of Justice, a Copy of the Records or Minutes of the Council of all Orders and Proceedings of his Lordship's honourable Council of State, made since the last Session of Assembly, relative to the Fees of all or any of the Officers in this Province," was delivered to me.

As I apprehend, that my Compliance with the said Order would be repugnant to the Nature and Duty of my Office, so, I hope, I shall be excused in not executing the Direction.

I am, Gentlemen, with great Respect,

Your most humble Servant,

To the Committee of Aggrievances  
and Courts of Justice.

U. SCOTT.

ORDERED, That they be read; and they were severally read accordingly.

On Motion, the Question was put, That the Subject Matter of the said Report be taken into Consideration on Thursday the 17th Instant; Resolved in the Affirmative.

On Motion, ORDERED, That Leave be given to bring in a Bill for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees; and that Mr. Hall, Mr. Handy, Mr. Allen, Mr. Hammond, Mr. Steele, Mr. Dennis, Mr. Grahame, Mr. Johnson, Mr. Tilghman, Mr. Paca, Mr. Chase, Mr. Jordan, Mr. Tyler, and Mr. So. Wright, do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Bill for the Trial of all Matters of Fact in the several Counties where they have arisen or shall arise; and that Mr. Tilghman, Mr. Ennalls, Mr. T. Wright, Mr. Dennis, Mr. Allen, and Mr. Paca, do prepare and bring in the same.

The House appoints Mr. James Hackman, and Mr. John Courts Jones, Committee Clerks.

ORDERED, That they be qualified.

Daniel of St. Thomas Jenifer, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of the Rector, Vestrymen, Freeholders and Parishioners of Prince George's Parish, lying in Frederick and Prince George's Counties, praying that an Act may pass, to empower the Magistrates of said Counties to levy on the taxable Inhabitants of the said Parish, the Quantity of Ninety-six Thousand Pounds of Tobacco, for building a new Church at the Place where the old one now stands; which was read a First and Second Time, and Leave given to bring in a Bill pursuant to the Prayer of the said Petition.

ORDERED, That Mr. Luckett, Mr. Wootton, Mr. Beatty, Mr. Beall, Mr. Tyler, Mr. Contee, and Mr. Sim, do prepare and bring in the same.

Also, a Petition of the Vestrymen and Churchwardens of St. Luke's Parish, in Queen-Anne's County, praying that a Law may pass, empowering the Vestry and Churchwardens of the said Parish, for the Time being, to dispose of the Pews in the Chapel of Ease in said Parish, in such Manner as may appear to them most advantageous and convenient to the Parishioners, or point out some particular Mode of Distribution of the said Pews: Which was read the First Time and ordered to lie on the Table.

The House adjourns till To-morrow Morning 9 o'Clock.

F R I D A Y, October 11th, 1771.

**T**HE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

Mr. Worthington appeared in the House.

Mr.



Mr. Speaker reports to the House the following Certificates.

ANNE-ARUNDEL I HEREBY certify, that on the 10th Day of October, 1771, came John County, ss. Courts Jones before me the Subscriber, one of the Justices of the Peace of the said County, and took the several Oaths to the Government required by Law, subscribed the Oath of Abjuration, repeated and signed the Test, and took the following Oath, viz. "I John Courts Jones do swear, that I will true Entries make of all such Matters and Things as shall be to me directed by any Committee of the Lower House of Assembly, for whom I shall act as Clerk, and that I will not divulge the Secrets of the said House, or of any Committee thereof, but will in all Things well and truly demean myself according to the best of my Skill and Knowledge. R. GHISELIN."

ANNE-ARUNDEL I HEREBY certify, that on the 10th Day of October, 1771, came County, ss. James Hackman before me the Subscriber, one of the Justices of the Peace of the said County, and took the several Oaths to the Government required by Law, subscribed the Oath of Abjuration, repeated and signed the Test, and took the following Oath, viz. "I James Hackman do swear, that I will true Entries make of all such Matters and Things as shall be to me directed by any Committee of the Lower House of Assembly, for whom I shall act as Clerk, and that I will not divulge the Secrets of the said House, or of any Committee thereof, but will in all Things well and truly demean myself according to the best of my Skill and Knowledge. R. GHISELIN."

The House being informed, that Mr. Francis Ware, a Delegate returned for Charles County, was attending at the Door; ORDERED, That Mr. Smallwood, and Mr. Hawkins, do go with that Gentleman to the Upper House to see him qualified.

They return and acquaint Mr. Speaker they saw him qualified in the usual Manner.

The Gentleman takes his Seat in the House.

Mr. Hammond being sick hath Leave of Absence.

The House was moved, that a Resolve of the Lower House of Assembly of the 22d Day of November 1763, respecting Parish Petitions, be read; and it was read accordingly.

Mr. Wootton brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for vesting in such foreign Protestants as are now naturalized, or shall be hereafter naturalized in this Province, all the Rights and Privileges of natural born Subjects*: Which was read the First Time and ordered to lie on the Table.

ORDERED, That the Remonstrance of the Magistrates of Charles County, which was referred from last Session to this Day, be read; and it was read accordingly.

On Motion, ORDERED, That Leave be given to bring in a Bill to aid the Defects in the Records of Charles County; and that Mr. Hall, Mr. Smallwood, Mr. Harrison, Mr. Ware, Mr. Hawkins, and Mr. Tilghman, do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Bill for more effectually preventing the buying and selling of Offices, and to prevent simoniacal Contracts; and that Mr. Chase, Mr. Allen, Mr. Dennis, Mr. Hawkins, Mr. Tilghman, and Mr. Hall, do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Bill for issuing Writs of Replevin out of the County Courts of this Province; and that Mr. Chase, and Mr. Tilghman, do prepare and bring in the same.

*The House adjourns till To-morrow Morning 9 o'Clock.*

S A T U R D A Y, October 12th, 1771.

THE House met. All Members present as on Yesterday, except Mr. Hammond. The Proceedings of Yesterday were read.

Mr. Owings being indisposed, hath Leave of the House to go home.

The Bill for vesting in such foreign Protestants as are now naturalized, or shall be hereafter naturalized in this Province, all the Rights and Privileges of natural born Subjects, was read a Second Time and will pass.

Mr. W. Thomas hath Leave of Absence for a few Days on his private Affairs.

Mr. T. Wright, Mr. Gresham, Mr. Ristau, and Mr. Moale, have Leave of Absence till Monday next.

Mr. Allen Quynn, in whose Stead Mr. William Goldsmith qualified as Serjeant, attended in the House; whereupon the said Goldsmith is discharged from any further Attendance.

*The House adjourns till Monday Morning 9 o'Clock.*

M O N D A Y, 14th October, 1771.

THE House met. All Members present as on Saturday, except Mr. Sim, Mr. Gresham, Mr. T. Wright, Mr. W. Thomas, and Mr. Owings. The Proceedings of Saturday were read.

D

Mr.



Mr. Mackall and Mr. Moale appear in the House.

The Bill, entitled, *An Act for vesting in such foreign Protestants as are now naturalized, or shall be hereafter naturalized in this Province, all the Rights and Privileges of natural born Subjects*, sent to the Upper House by Mr. Wootton and Mr. Lockett.

Mr. Hall brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*: Which was read the First Time and ordered to lie on the Table.

George Plater, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of several subscribing Clergymen of the Church of England, as established in Maryland, in Behalf of themselves and their Brethren, setting forth, that the Clergy of this Province, under the Sanction of a Law made in 1704, continued, save a very short Interruption, to receive the 40 per Poll to the Year 1747; when, by an Act, entitled, *An Act for amending the Staple of Tobacco, &c.* which expired in 1770, they received but 30 in lieu of the 40 per Poll settled upon them, in Perpetuity, by the Crown of England, by and with the Advice and Consent of the General Assembly; and praying the House, that in framing a new Law, such Attention will be shewn to the Petitioners as is consistent with their legal Rights: Which was read and ordered to lie on the Table.

And a Petition of Mary Louttit, Executrix and Relict of James Louttit of Cecil County, deceased, praying that an Act may pass to empower her to dispose of One Third Part of about Twenty Acres of Land, and a Grist-Mill, (which her late Husband died seised of) and apply the Money arising on such Sale towards the Payment of her said Husband's Debts: Which was read.

ORDERED, That the same be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them, to the House; and Mr. Baxter, Mr. Ward, Mr. Veazy, and Mr. Tilghman, are appointed a Committee accordingly; and they have Power to send for Persons, Papers and Records.

Mr. Handy brings in, and delivers to Mr. Speaker, the following Report:

By the COMMITTEE appointed to enquire what Laws will expire at the Close of this Session, October 12th, 1771.

YOUR Committee find, that the following Acts of Assembly will expire at the End of this Session, if not continued, viz.

An Act for the Preservation of the Breed of Fish, passed May Session 1768.

An Act for reviving and continuing an Act, entitled, *An Act to establish a Market, at the Market House in Chester-Town, in Kent County, and for the Regulation of the said Market*, passed May Session 1768.

An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen, passed May Session 1768.

An Act for amending and declaring the Law in the Cases therein mentioned, passed May Session 1768.

All which is submitted to the Consideration of the honourable House.

Signed per Order,

JOHN C. JONES, Cl.

Which was read and ordered to lie on the Table.

William Fitzhugh, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act for vesting in such foreign Protestants as are now naturalized, or shall be hereafter naturalized in this Province, all the Rights and Privileges of natural born Subjects*; thus endorsed: "By the Upper House of Assembly, October 14th, 1771: Read the First and Second Time, by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which Bill was read here, and passed for engrossing.

Mr. Wootton brings in, and delivers to Mr. Speaker, the said Bill engrossed: Which was read and assented to.

The Order of the Day for taking into Consideration the Petition of Robert Henley Courts, against Mr. Francis Ware and Mr. Josias Hawkins, Two Delegates returned for Charles County, being read; the House was moved, that the Resolves of the Lower House of Assembly of the 22d June 1768, for preventing Charge and Expence in Elections of Members to serve in the General Assembly, be read; and they were read accordingly.

The House took into Consideration the Petition of Robert Henley Courts against Mr. Francis Ware, and after Examination of several Witnesses at the Bar, the sitting Members withdrew, and the House RESOLVED, That Francis Ware is guilty of treating at the late Election for Charles County; and the Question was put, That Mr. Francis Ware is duly elected a Burgess to serve in this General Assembly for Charles County? Resolved in the Negative.

The House took into Consideration the said Petition against Mr. Josias Hawkins, and after Examination of several Witnesses, at the Bar, RESOLVED, That Josias Hawkins is guilty of treating at the late Election for Charles County; and the Question was put, That Mr. Josias Hawkins is duly elected a Burgess to serve in this General Assembly for Charles County? Resolved in the Negative.

ORDERED, That the sitting Members be called in; and they appeared at the Bar accordingly.

ORDERED, That Mr. Speaker do acquaint the Gentlemen with the Resolutions of the House, and inform them, that they are discharged from any further Attendance as Members of this House. Which he accordingly did.

ORDERED, That Mr. Francis Ware and Mr. Josias Hawkins do pay the Charge arising due on the said Petition.

ORDERED,



ORDERED, That Mr. Beall, Mr. Chase, and Mr. Tilghman, be a Committee to tax the Fees arising due on the said Petition.

ORDERED, That Mr. Speaker do issue his Warrant to the Secretary of this Province, requiring him to make out a new Writ of Election, directed to the Sheriff of Charles County, to elect Two Delegates to serve in this present Session of Assembly, in the Room of Mr. Francis Ware and Mr. Josias Hawkins, whose Seats are vacated.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## T U E S D A Y, October 15, 1771.

THE House met. All Members present as on Yesterday, except Mr. Tilghman and Mr. Earle. The Proceedings of Yesterday were read.

Mr. T. Wright appeared in the House.

On Motion, ORDERED, That Leave be given to bring in a Bill for the Adjournment and Continuance of the High Court of Appeals.

Mr. Paca brings in, and delivers to Mr. Speaker, the said Bill: Which was read the First and Second Time, by an especial Order, and will pass. Sent to the Upper House by Mr. Paca and Mr. Hall.

On Motion, ORDERED, That Leave be given to bring in a Bill to prevent the Exportation of Flour, Staves and Shingles, not merchantable, from the Town of Baltimore or Fell's-Point, in Baltimore County, and to regulate the Weight of Hay and Measure of Grain, Salt, Flaxseed and Fire-wood within the said Town; and that Mr. Moale, Mr. Deye, Mr. Ristean, Mr. Owings, Mr. Paca, and Mr. Chase, do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Supplementary Bill to the Act, entitled, *An Act for the Building of a Parish Church in Christ-Church Parish, in Calvert County*; and that Mr. Grahame, Mr. Mackall, Mr. Parran, and Mr. Weems, do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Bill for the Inspection of Flour at George-Town, in Frederick County; and that Mr. Wootton, Mr. Luckett, Mr. Beatty, and Mr. Chase, do prepare and bring in the same.

ORDERED, That the Order of Day for taking into Consideration the Petition of Robert Dick, and others, be read; and it was read accordingly.

ORDERED, That the Petition of Robert Dick, and others, be read; and it was read accordingly.

ORDERED, That a Paper, entitled, "A List of Tobacco damaged at Bladensburg Warehouse, by the Fresh and high Tide, in the Night between the 14th and 15th of August 1767, with what is cut off each Hoghead," be read; and it was read accordingly.

ORDERED, That Mr. Chase, Mr. Hall, Mr. Beall, Mr. Handy, Mr. Contee, Mr. Allen, and Mr. Paca, be a Committee to enquire into the Facts set forth in the said Petition and Papers, and report the same, as it shall appear to them, to the House; and they have Power to send for Persons, Papers and Records.

Mr. Beall brings in, and delivers to Mr. Speaker, the following Report:

*October 15, 1771.*

By the COMMITTEE appointed to tax the Fees and Allowances arising due to the Officers of this House, and sundry Witnesses on the Petition of Robert Henley Courts, of Charles County.

IN Obedience to the Order of the honourable House, your Committee have proceeded to tax the Fees and Allowances on the above Petition as follows:

To the Clerk for issuing Nine Summons, at 3s.	-	-	-	£. 1 7 0
To the Serjeant, for serving Eight Summons, at 3s.	-	-	-	1 4 0
To John Luckett, One Day's Attendance, and Four Days Itinerant Charges, at Five Shillings,	-	-	-	1 5 0
To John Parran, for the same,	-	-	-	1 5 0
To Anthony Gray, for the same,	-	-	-	1 5 0
To Ignatius Ryan, for the same,	-	-	-	1 5 0
To Ignatius Middleton, for the same,	-	-	-	1 5 0
To Thomas Reeder, for the same,	-	-	-	1 5 0
To Edward Bearman, for the same,	-	-	-	1 5 0
				£. 11 6 0

All which is submitted to the Consideration of the honourable House.

*Signed per Order,*

W. WRIGHT, Cl.

Which was read and concurred with.

On Motion, ORDERED, That Leave be given to bring in a Bill to aid defective common Recoveries; and that Mr. Paca and Mr. Chase do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Bill for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen; and that Mr. Grahame, Mr. Beall, Mr. Tyler, Mr. Allen, Mr. Hall, Mr. Harrison, and Mr. Dennis, do prepare and bring in the same: And that the said Gentlemen be a Committee to bring in the continuing Bills.

ORDERED, That the Order of the Day for taking into Consideration the Compass Bill, &c. be read; and it was read accordingly.

ORDERED,



16 VOTES AND PROCEEDINGS, OCTOBER 1771.

ORDERED, That the same be referred for Consideration on the Second Tuesday of next Session.

ORDERED, That the Order of the Day for taking into Consideration the Report of the 20th November last, relative to *Anne Gaither*, be read; and it was read accordingly.

Upon Consideration of the said Report, Leave is given to bring in a Bill for the Relief of *Anne Gaither*.

ORDERED, That Mr. *Hall* and Mr. *Paca* do prepare and bring in the same.

*George Steuart*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act for the Adjournment and Continuance of the High Court of Appeals*; thus endorsed: "By the Upper House of Assembly, October 15th, 1771: Read the First and Second Time, by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here and passed for engrossing.

Mr. *Wootton* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act empowering the Justices of Prince George's and Frederick Counties, to levy on the taxable Persons of Prince George's Parish, in said Counties, the Sum of Ninety-six Thousand Pounds of Tobacco, for building a new Parish Church, at or near the Place where the old one now stands*: Which was read the First and Second Time, by an especial Order, and will pass. Sent to the Upper House by Mr. *Wootton* and Mr. *Beatty*.

ORDERED, That no Claims be received against the Publick after Tuesday the 22d Instant, and that the Journal of Accounts be closed to that Day.

Mr. *Dennis* brings in, and delivers to Mr. Speaker, a Bill for more effectually preventing the buying and selling of Offices, and to prevent simoniacal Contracts: Which was read the First Time and ordered to lie on the Table.

On Motion, ORDERED, That Leave be given to bring in a Bill for raising Pence Sterling on every Hoghead of Tobacco exported out of this Province, for the Support of an Agent at London, for the Service of this Province; and that Mr. *Beall*, Mr. *Dennis*, and Mr. *Grahame*, do prepare and bring in the same.

Mr. *Beall* brings in, and delivers to Mr. Speaker, the said Bill.

*Daniel of St. Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker the Petitions of sundry languishing Prisoners, with a List of their Names: Which List was thus endorsed: "By the Upper House of Assembly, October 15th, 1771: Read and referred to the Consideration of the Lower House of Assembly, the Petitions of the several Prisoners, of which this is a List.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

The engrossed Bills, No. 1, and 2, were sent to the Upper House, with the Paper Bills thereof, by Mr. *Wootton* and Mr. *Beatty*.

On Motion, the Clergy Petition was read a Second Time, and the Consideration thereof referred till the Second Reading the Bill for amending the Staple of Tobacco, &c.

The House appoint Mr. *James Brooks* a Committee Clerk.

ORDERED, That he be qualified.

Mr. *Allen* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for issuing Writs of Replevin out of the County Courts of this Province*: Which was read the First Time and ordered to lie on the Table.

The House adjourns till To-morrow Morning 9 o'Clock.

W E D N E S D A Y, October 16th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

Mr. *Johnson*, Mr. *Earle*, and Mr. *Tilghman*, appeared in the House.

*George Plater*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act empowering the Justices of Prince George's and Frederick Counties, to levy on the taxable Persons of Prince George's Parish, in said Counties, the Sum of Ninety-six Thousand Pounds of Tobacco, for building a new Parish Church, at or near the Place where the old one now stands*; thus endorsed: "By the Upper House of Assembly, October 16th, 1771: Read the First and Second Time, by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

*Daniel Dulany*, Esq; from the Upper House, delivers to Mr. Speaker, the Paper Bills No. 1 and 2, severally endorsed: "By the Upper House of Assembly, October 15th, 1771: The engrossed Bill, whereof this is the Original, read and assented to.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

*George Steuart*, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of the Vestrymen and Churchwardens of *Stepney* Parish, in *Somerset* and *Worcester* Counties, praying an Act may pass, to empower the Justices of those Counties to levy on the taxable Inhabitants of said Parish Sixty Thousand Pounds of Tobacco, for finishing and compleating Three Chapels of Ease in the said Parish. And,

A Petition of the said Vestrymen and Churchwardens, and sundry other Parishioners of said Parish, praying an Act may pass to establish and confirm the Church at *Green-bill* the Parish Church for the aforesaid Parish.

Benedict



*Benedict Calvert* and *Walter Dulany*, Esqrs. from the Upper House, acquaint Mr. Speaker, that his Excellency requires the Attendance of the Members of this House in the Upper House to see the Laws passed.

Mr. Speaker left the Chair, and (with the Members of this House) went to the Upper House, and there presented to his Excellency, an engrossed Bill, entitled, *An Act for vesting in such foreign Protestants as are now naturalized, or shall be hereafter naturalized in this Province, all the Rights and Privileges of natural born Subjects.* And,

An engrossed Bill, entitled, *An Act for the Adjournment and Continuance of the High Court of Appeals.*

Both which his Excellency passed into Laws in the usual Manner; and then delivered to Mr. Speaker Two Papers, marked "Amount of Tonnage from 29th September 1769 to 29th Sept. 1770. Amount of Tonnage from 29th September 1770 to 29th September 1771. And the following Message:

GENTLEMEN,

Annapolis 16th October, 1771.

I HEREWITH lay before you the Amount of Tonnage of all Vessels, as well foreign as free Bottoms, entered in Maryland these Two last Years, (Vessels from Virginia excepted) and shall be happy, if it is in my Power to do any Thing further to advance the Erection of the proposed Light-House on Cape-Henry, in which the Trade of Maryland is equally interested with that of her Sister, Virginia.

ROBERT EDEN.

Mr Speaker (with the rest of the Members) returned. Mr. Speaker resumes the Chair.

On a Second Reading that Part of the Bill for amending the Staple of Tobacco, &c. relative to the Allowance to the Clergy, the House was moved, that the Third Section of an Act of Assembly, entitled, *An Act for the Establishment of religious Worship in this Province, according to the Church of England, and for the Maintenance of Ministers,* made the 16th March 1761-2, be read; and it was read accordingly.

The Question was put, That that Part of the Bill relative to the 30 per Poll be altered? Resolved in the Affirmative.

The Question was put, That the Clergy receive on 32 instead of 30<sup>ths</sup> of Tobacco per Poll, if paid in Money? Resolved that they receive on 32.

For T H I R T Y - T W O.

Messieurs {	Reeder,	Grahame,	Moale,	Beall,	Tilghman,
	Jordan,	Smallwood,	Veazy,	Contee,	Earle,
	Johnson,	W. Richardson,	Baxter,	Hall,	T. Wright.
	Chafe,	Ennalls,	Ward,	Paca,	So. Wright,
	Parran,	Jo. Richardson,			

For T H I R T Y.

Messieurs {	Worthington,	Handy,	Deye,	Chaille,	Lockett,
	Mackall,	Dennis,	Tyler,	Robins,	Wootton,
	Weems,	Risteau,	Holland,	Allen,	Beatty,
	Harrison,				

The House adjourns till To-morrow Morning 9 o'Clock.

T H U R S D A Y, 17th October, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

Mr. Steele being indisposed hath Leave of Absence for the Recovery of his Health.

The Bill for amending the Staple of Tobacco, &c. was read the Second Time and committed for Amendment.

On Motion, ORDERED, That Leave be given to bring in a Supplementary Bill to the Act, entitled, *An Act for building a Parish Church in Queen-Anne Parish, in Prince-George's County;* and that Mr. Beall, Mr. Tyler, and Mr. Contee, do prepare and bring in the same.

ORDERED, That the Order of the Day for taking into Consideration the Report of the 10th Instant, from the Committee of Grievances and Courts of Justice, be read; and it was read accordingly.

ORDERED, That the Papers annexed to the said Report, be read; and they were read accordingly.

ORDERED, That John Clapham, Esq; Sheriff of Anne-Arundel County, immediately attend at the Bar of this House, and produce to this House the Proclamation issued on the 26th Day of November 1770, in the Name of his Excellency the Governor, and published by the said John Clapham as Sheriff of Anne-Arundel County, relative to the Fees of all or any of the Officers of this Province.

ORDERED That the Clerk of this House do forthwith deliver to the Serjeant at Arms attending this House a Copy of the above Order.

E

ORDERED,



ORDERED, That the Serjeant at Arms attending this House do forthwith serve the said *John Clapham* with a Copy of the above Order.

Mr. *Grahame* brings in, and delivers to Mr. Speaker, a Bill reviving and continuing an Act, entitled, *An Act to establish a Market at the Market-House in Chester-Town, in Kent County, and for the Regulation of the said Market.* And,

A Bill, entitled, An Act continuing an Act, entitled, *An Act for the Preservation of the Breed of Fish.*

The House being informed that Mr. *John Clapham*, Sheriff of *Anne-Arundel County*, was attending at the Door: ORDERED, That he be called in, and he appeared accordingly; and at the Bar presented to the House a Proclamation.

ORDERED, That the Clerk of this House do take a Copy thereof, and make it a Part of these Proceedings: Which he accordingly did; and it follows in these Words, *viz.*

By his Excellency ROBERT EDEN, Esq; Lieutenant-General and Chief Governor in and over the Province of Maryland.

## A P R O C L A M A T I O N.

MARYLAND, ff. **B**EING desirous to prevent any Oppressions and Extortions from being committed, under Colour of Office, by any of the Officers and Ministers of this Province, and every of them, their Deputies or Substitutes, in exacting unreasonable and excessive Fees from the good People thereof, I have thought fit, with the Advice of his Lordship's Council of State, to issue this my Proclamation: And do hereby therefore order and direct, that from and after the Publication hereof, no Officer or Officers, (the Judges of the Land-Office excepted, who are subject to other Regulation to them given in Charge) their Deputies or Substitutes, by Reason or Colour of his or their Office or Offices, have, receive, demand or take, of any Person or Persons, directly or indirectly, any other or greater Fees than by an Act of Assembly of this Province, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs; and for the Limitation of Officers Fees*, made and passed at a Session of Assembly, begun and held at the City of *Annapolis*, on Tuesday the Fourth Day of *October*, in the Year of our Lord Seventeen Hundred and Sixty-three, were limited and allowed; or take or receive, of any Person or Persons, on immediate Payment, (in Case Payment shall be made in Money) any larger Fee than after the Rate of Twelve Shillings and Six-pence common current Money for One Hundred Pounds of Tobacco, under the Pain of my Displeasure: And to the Intent that all Persons concerned may have due Notice thereof, I do strictly charge and require the Sheriff of the City of *Annapolis*, to make this my Proclamation publick in the said City, as he will answer the contrary at his Peril. Given at the City of *Annapolis* this 26th Day of *November*, in the Twentieth Year of his Lordship's Dominion, Anno Domini 1770.

Signed by Order,

U. SCOTT, Cl. Con.

R O B. E D E N.

Mr. *Gresham* appeared in the House.

*Daniel of St. Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of *Francis Colvill*, *George Washington*, and *John West*, jun. Executors of *Thomas Colvill*, late of *Fairfax County*, in *Virginia*, and *John Semple*, Merchant, setting forth, That a certain *John Colvill*, late of *Fairfax County* aforesaid, being possessed of a Tract of Land in *Frederick County*, in the Province of *Maryland*, called *Merryland*, did by his last Will and Testament empower his Brother *Thomas Colvill*, one of his Executors, to sell the said Land to pay his Debts.—That the said *Thomas Colvill* did sell the said Land unto *John Semple*, one of the Petitioners, on the 8th Day of *May* 1765, for £. 2500 Sterling, and took the said *Semple's* Bond for the Payment thereof.—That the said *Thomas Colvill* died before he made Deeds to the said *Semple*, or before *Semple* paid the whole Sum of £. 2500 Sterling.—That *John Colvill* died considerably in Debt to sundry Persons, and among others, owed his Brother *Thomas Colvill* upwards of £. 800 Sterling.—That the said *Thomas*, at his Death, was indebted several Sums of Money, and bequeathed sundry Legacies, which cannot be paid unless the Executors can receive the Debt due from *John Colvill's* Estate, and therefore praying the House, that a Law may pass enabling the Executors of *Thomas Colvill*, or the Survivors of them, to make sufficient Deeds to the said *John Semple*, or his Assigns, for the said Lands, on his or their paying such Sum as shall appear to be due on the said Bond; or in Case the Money should not be paid within a short Space of Time, that *Thomas Colvill's* Executors may be by Law enabled to sell the said Lands to the highest Bidder, so as the Wills of *John* and *Thomas Colvill* may be complied with.

ORDERED, That *William Steuart*, Clerk of the Land-Office, immediately attend at the Bar, and produce to this House the Regulation lately given in Charge to the Registers of the said Office, respecting the Fees thereof, as mentioned in the Proclamation of the 26th *November*, 1770.

ORDERED, That the Clerk of this House do forthwith deliver to the Serjeant at Arms attending this House a Copy of the above Order.

ORDERED, That the Serjeant at Arms attending this House, do forthwith serve the said *William Steuart* with a Copy of the above Order.

The House being informed, that Mr. *William Steuart*, Clerk of the Land-Office, was attending at the Door: ORDERED, That he be called in; he appeared accordingly, and at the Bar presented to the House a Paper Writing under the Great Seal, which the Clerk of this House is directed to take a Copy of, and enter among the Proceedings; which he accordingly did, and it follows in these Words, *viz.*

*November*



November 24th, 1770.

FREDERICK absolute Lord and Proprietary of the Provinces of *Maryland* and *Avalon*, Lord Baron of *Baltimore*, &c. For the ascertaining what Fees and Perquisites may and shall be taken and received by our Judges and Register of our Land-Office, for their own Use and Benefit, WE do think fit, and accordingly declare it to be our Will and Pleasure, that our said Judges and Register, shall have, receive and take the following Fees and Perquisites hereunder written, to their own Use and Benefit. Witness our Brother ROBERT EDEN, Esq; Governor of our said Province of *Maryland*, and Chancellor and Keeper of the Great Seal thereof.

FEES and PERQUISITES allowed by the Right Honourable the Lord Proprietary, &c. to be taken by his Judges and Register of his Land-Office, viz.

For a Common Warrant,	33
For renewing the same,	33
For recording Certificate, per Side,	9
For making out a Grant,	90
For recording it,	67
For every Petition and Order,	150
For a Special Warrant, including Petition and Order thereon,	375
For renewing every Special Warrant,	75
For every Deed or Assignment,	24
For Hearing and Sentence thereon,	75
For searching any Matter or Thing, the first Year,	Nothing.
For all Searches above one Year, be the Time of what Length soever, if the Matter searched for be found,	15
For all Copies, per Side, computed as before,	9
For every other Service not herein mentioned, per Side, and so pro rato,	9

N. B. The above Fees, if paid for at the Time of performing the Service, may be discharged in Money, at the Rate of Twelve Shillings and Six-pence Currency for every 100<sup>lb</sup> of Tobacco; and if paid in inspected Tobacco, 10 per Cent. to be discounted for Conveniencey.

ROB. EDEN.

The further Consideration whereof is referred till To-morrow.

*The House adjourns til To-morrow Morning 9 o'Clock.*

F R I D A Y, October 18th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

On Motion, ORDERED, That Leave be given to bring in a Supplemeneary Bill to the Act, entitled, *An Act to enable the Justices of Dorchester County Court, to assess and levy on the taxable Inhabitants of the said County, a Quantity of Tobacco for the Purpose of building a Court-House*; and that Mr. Ennalls, Mr. Joseph Richardson, Mr. W. Richardson, Mr. Chase, and Mr. Johnson, do prepare and bring in the same.

Benedict Calvert, Esq; from the Upper House, delivers to Mr. Speaker a Petition of sundry Subscribers, living in and convenient to the Town of *Bladensburg* in *Prince George's County*, setting forth, that the Navigation of the Eastern Branch of *Patowmack* River being obstructed by several Bars, which are daily encreasing, many People have subscribed Sums of Money to a considerable Amount, to be paid to certain Persons in the Petition named, to be by them applied towards clearing the said Navigation; and praying that an Act may pass, empowering the said Persons, as Trustees, to receive further Subscriptions, to obtain Payment of all Sums of Money which have been or shall be subscribed for the said Purpose, according to the Terms of such Subscription, and to contract with fit Persons for effecting the Purpose aforesaid, by making the Channel deeper, straighter or wider, as shall be thought most easy and most effectual for preventing Obstructions from gathering hereafter.—That in the said Act it may be declared lawful to destroy, and that a fit Penalty may be annexed to the making any Hedges or Wares on the Waters aforesaid in Time to come; and that a severe Penalty may, by the said Act, attend the cleaning of Fish, and leaving any Part of them within the said Town, or within half a Mile thereof. And,

A Petition of *Frank Leeke* and *George Digges*, of *Prince George's County*, praying an Act may pass to empower them to sell a Lot of Ground in *Upper-Marlborough*, which *Charles Digges*, late of that County, deceased, purchased from a certain *John Weldon*, for the Payment of the Debts of the said *Charles Digges*.

The Bill for amending the Staple of Tobacco, &c. was read with the Amendments for which it had been committed, passed, and sent to the Upper House by Mr. Hall and Eleven more.

Mr. Chamberlaine, Mr. Ennalls, and Mr. W. Richardson, have Leave of Absence.

Mr. Beall brings in, and delivers to Mr. Speaker, the following Report:

By the COMMITTEE upon the Petition of Robert Dick, and others.

YOUR Committee have proceeded to examine into the Facts set forth in the said Petition, and find, by the annexed Articles of Agreement for building Two Warehouses at *Bladensburg*, that the same were to have been compleated by the Fifteenth Day of *Jul* One Thousand Seven Hundred and Sixty-seven; and by the annexed Deposition of *William Deakins*, One of the



the Inspectors at said Warehouse that Year, it will (among other Things) appear, that the Warehouses aforesaid were not compleated at the Time of the Freshes, which occasioned the Damage sustained in the Tobacco in One of the said Warehouses.

All which is submitted to the Consideration of the honourable House.

Signed by Order,

JOHN C. JONES, Cl.

Which being read: ORDERED, That the Petition of *Robert Dick*, and others, be read; and it was read accordingly.

ORDERED, That the several Papers annexed to the said Report, be read; and they were read accordingly.

ORDERED, That the 141, 142 and 143 Sections of an Act of Assembly, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*, made October Session 1763, be read; and they were read accordingly.

Upon Consideration of the above Petition, and other Papers, the House RESOLVED, That the Publick shall not be burthened to make good any Loss mentioned in the said Petition.

On Motion, ORDERED, That Leave be given to bring in a Bill for the Relief of the Sufferers at *Bladenburg* Warehouse; and that Mr. Hall, Mr. Beall, and Mr. Tyler, do prepare and bring in the same.

ORDERED, That the Order of the Day for taking into Consideration the Report of the Committee of Grievances and Courts of Justice of the 10th Instant, be read; and it was read accordingly.

ORDERED, That the said Report be read; and it was read accordingly.

ORDERED, That the Proclamation issued the 26th Nov. 1770, be read; and it was read accordingly.

ORDERED, That a Paper Writing under the Great Seal, signed by the Governor, the 24th November 1770, be read; and it was read accordingly.

ORDERED, That the Resolves of the Lower House of Assembly of the 1st November 1770, be read; and they were read accordingly.

The House was moved, that the Stat. of the 34th Edward I. Cap. 1. be read; and it was read accordingly.

The House was moved, that an Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown, made the 1. W. and M. Cap. 2. be read; and it was read accordingly.

The House was moved, that the 8th Section of the Charter of this Province, be read; and it was read accordingly.

The House was moved, that an Act of Assembly of this Province, entitled, *An Act against raising Money within this Province without Consent of the Assembly*, made the 29th April 1650, be read; and it was read accordingly.

ORDERED, That the following be entered as the Resolves of this House.

RESOLVED UNANIMOUSLY, That the Representatives of the Freemen of this Province have the sole Right, with the Assent of the other Part of the Legislature, to impose and establish Taxes or Fees, and that the imposing, establishing or collecting any Taxes or Fees, on or from the Inhabitants of this Province, under Colour or Pretence of any Proclamation issued by, or in the Name of the Lord Proprietary, or other Authority, is arbitrary, unconstitutional and oppressive.

RESOLVED UNANIMOUSLY, That in all Cases where no Fees are established by Law for Services done by Officers, the Power of ascertaining the Quantum of the Reward for such Services is constitutionally in a Jury upon the Action of the Party.

RESOLVED UNANIMOUSLY, That the Proclamation issued in the Name of his Excellency *Robert Eden*, the Governor, with the Advice of his Lordship's Council of State, on the 26th Day of November 1770, is illegal, arbitrary, unconstitutional and oppressive.

RESOLVED UNANIMOUSLY, That the Paper Writing under the Great Seal of this Province, issued in the Name of the Lord Proprietary, on the 24th Day of November 1770, for the ascertaining the Fees and Perquisites to be received by the Registers of the Land-Office, is illegal, arbitrary, unconstitutional and oppressive.

The Question was put, That the following be entered as the Resolve of this House.

RESOLVED, That the Advisers of the said Proclamations are Enemies to the Peace, Welfare and Happiness of this Province, and the Laws and Constitution thereof? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messieurs	Jordan,	Harrison,	Deye,	Contee,	Holland,
	Grahame,	Smallwood,	Veazy,	Paca,	Chaille,
	Johnson,	Handy,	Baxter,	Tilghman,	Robins,
	Chase,	Dennis,	Ward,	Earle,	Allen,
	Mackall,	J. Richardson,	Beall,	T. Wright,	Wootton,
	Parran,	Moale,	Tyler,	So. Wright,	Beatty,
	Weems,	Risteau,			

For the N E G A T I V E.

Messieurs W. Richardson, Ennalls, Hall.

ORDERED,



ORDERED, That an Address be prepared to his Excellency the Governor respecting the said Proclamations, and that a Copy of the above Resolves be sent with the said Address.

ORDERED, That Mr. Chase, Mr. Hall, Mr. Johnson, Mr. Dennis, Mr. Paca, Mr. Tilghman, Mr. Grabame, Mr. Handy, Mr. Allen, and Mr. S. Wright, do prepare and bring in such Address.  
The House adjourns till To-morrow Morning Half after 8 o'Clock.

## S A T U R D A Y, October 19th, 1771.

THE House met according to Adjournment. All Members present as on Yesterday, except Mr. Chamberlaine, Mr. W. Richardson, and Mr. Ennalls. The Proceedings of Yesterday were read.

Mr. Earle, Mr. Jordan, Mr. So. Wright, and Mr. Moale, have Leave of Absence.

On Motion, RESOLVED, That this House will, on Tuesday next, take into Consideration the Expediency and the Ways and Means of issuing Bills of Credit for the Improvement of the Province, and the Advancement of the Trade thereof.

The Petition of Frances Colvill, and others, was read: ORDERED, That the same be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them, to the House; and Mr. Johnson, Mr. Paca, and Mr. Smallwood, are appointed a Committee accordingly; and they have Power to send for Persons, Papers and Records.

The Bill, entitled, *An Act to aid defective common Recoveries*, read the First Time and ordered to lie on the Table.

The Petition of Frank Lecke and George Digges read: ORDERED, That the same be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them, to the House; and Mr. Handy, Mr. Dennis, Mr. Paca, Mr. Beall, Mr. Tyler, and Mr. Contee, are appointed a Committee accordingly; and they have Power to send for Persons, Papers and Records.

The Petition of the Vestrymen and Churchwardens of Stepney Parish, praying that an Act of Assembly may pass, empowering the Justices of Somerset and Worcester Counties, to levy on the taxable Inhabitants of the said Parish Sixty Thousand Pounds of Tobacco, to be applied to the Purpose of finishing and compleating Three Chapels of Ease in the said Parish, was read and granted. Leave given to bring in a Bill pursuant to the Prayer of the said Petition.

ORDERED, That Mr. Dennis and Mr. Handy do prepare and bring in the same.

The Petition of sundry the Inhabitants of Stepney Parish, praying that an Act may pass to establish the Chapel at the Head of Wicomico River the Parish Church, read and rejected.

The Petition of the Vestrymen, Churchwardens and Parishioners of Stepney Parish, praying that an Act may pass to establish and confirm the Church at Green-hill the Parish Church, read and ordered to lie on the Table.

The Bill, entitled, *An Act for issuing Writs of Replevin, &c.* read a Second Time, passed, and sent to the Upper House by Mr. Smallwood and Mr. Mackall.

The Bill, entitled, An Act continuing an Act, entitled, *An Act for the Preservation of the Breed of Fish*. And,

The Bill, entitled, An Act continuing an Act, entitled, *An Act to establish a Market at the Market-House, in Chester-Town, in Kent County, and for the Regulation of the said Market*, were severally read the First and Second Time, by an especial Order, and will pass. Sent to the Upper House by Mr. Veazy and Mr. Earle.

The Bill, entitled, *An Act for the Relief of Anne Gaither, of the City of Annapolis, Widow*, read the First and Second Time, by an especial Order, and committed for Amendment; and Leave given to alter the Title.

The Petition of sundry Persons, living in and convenient to the Town of Bladensburg, in Prince-George's County, read the First Time and ordered to lie on the Table.

On Motion, ORDERED, That Leave be given to bring in a Bill for imposing a further additional Duty of Five Pounds current Money per Poll on all Negroes imported into this Province; and that Mr. Tilghman, Mr. Grabame, and Mr. Mackall, do prepare and bring in the same.

The Bill, entitled, *An Act for raising Pence Sterling on every Hogshead of Tobacco exported out of this Province, for the Support of an Agent at London, for the Service of this Province*, read the First Time and ordered to lie on the Table.

A Remonstrance from the Justices of Anne-Arundel County, which was referred from last to this Session of Assembly, was read: ORDERED, That the same be taken into Consideration on Thursday next.

Daniel of St. Thomas Jenifer, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, An Act continuing an Act, entitled, *An Act for the Preservation of the Breed of Fish*.

And, the Bill, entitled, An Act continuing an Act, entitled, *An Act to establish a Market at the Market-House, in Chester-Town, &c.* severally endorsed: "By the Upper House of Assembly, October 19th, 1771: Read the First and Second Time, by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which were severally read here and passed for engrossing.

The House adjourns till Monday Morning 9 o'Clock.



M O N D A Y, October 21st, 1771.

THE House met. All Members present as on Saturday, except Mr. Moale, Mr. Earle, Mr. Jordan, Mr. So. Wright, and Mr. Wootton. The Proceedings of Saturday were read.

Mr. Rumsey and Mr. N. Thomas appeared in the House.

Mr. Tilghman brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for imposing a further additional Duty of Pounds current Money per Poll on all Negroes imported into this Province*: Which was read the First Time and ordered to lie on the Table.

Mr. Beall brings in, and delivers to Mr. Speaker, a Bill, entitled, *A Supplementary Act to the Act, entitled, An Act for the building a Parish Church in Queen-Anne Parish, in Prince-George's County*: Which was read the First Time and ordered to lie on the Table.

The House being informed that Mr. Theophilus Hanson was attending at the Door, in Obedience to the Order of the 10th Instant: ORDERED, That he be called in, and he appeared at the Bar accordingly.

ORDERED, That the Report from the Committee of Grievances of the 20th November 1770, be read; and it was read accordingly.

Mr. Hanson, agreeable to the above Order, produced to the House the Instructions he received from Horatio Sharpe, Esq; Surveyor-General of the Western Shore, in the Year 1767.

ORDERED, That they be read; and they were read accordingly.

He also produced additional Instructions from Mr. George Lee.

ORDERED, That they be read; and they were read accordingly.

It appearing that the said Theophilus Hanson, although he had charged excessive Fees, seemed rather to have followed the Charges of others, than to have had any real Intention of Extortion, and that he had not received those excessive Charges; therefore he is discharged.

Mr. Grabame brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen*: Which was read the First Time and ordered to lie on the Table.

*The House adjourns till To-morrow Morning 9 o'Clock.*

T U E S D A Y, October 22d, 1771.

THE House met. All Members present as on Yesterday, except Mr. Hall. The Proceedings of Yesterday were read. Mr. Moale appeared in the House.

The Order of the Day for taking into Consideration the Report of the Committee of Grievances of the 19th November last, being read; ORDERED, That the same be taken into Consideration on Tuesday the 29th Instant.

ORDERED, That the Order of the Day for taking into Consideration the Expediency and the Ways and Means of issuing Bills of Credit, for the Improvement of the Province and the Advancement of the Trade thereof, be read, and it was read accordingly.

The Question was put, that the House will now resolve itself into a Committee of the whole House, to take into Consideration the Expediency and the Ways and Means of issuing Bills of Credit, for the Improvement of the Province and the Advancement of the Trade thereof? Resolved in the Affirmative.

The House resolved itself into the said Committee, and after some Time spent therein, Mr. Speaker resumed the Chair, and Mr. Worthington, Chairman of the said Committee, made the following Report.

RESOLVED, That it is the Opinion of this Committee, that for transacting the Business and carrying on the Commerce and Trade of this Province, it is expedient and necessary that there be a further Emission of Bills of Credit: That Bills of Credit be struck to the Amount of 270,000 Dollars; of which 266,666 $\frac{2}{3}$  of a Dollar be emitted: That the said Bills of Credit be circulated by Way of Loan, upon real and personal Security.

Mr. Worthington also reported, that the said Committee prayed they might have Leave to sit again on Friday next.

RESOLVED, That this House will, on Friday next, resolve itself into a Committee of the whole House, to take into further Consideration the Expediency and the Ways and Means of issuing Bills of Credit, for the Improvement of the Province and the Advancement of the Trade thereof.

The House being informed that Mr. John Frederick Augustus Priggs was attending at the Door, in Obedience to the Order of the 10th Instant.

ORDERED, That he be called in, and he appeared at the Bar accordingly.

ORDERED, That the Report of the Committee of Grievances and Courts of Justice of the 20th November 1770, be read; and it was read accordingly.

ORDERED, That John Frederick Augustus Priggs have a Copy of the said Report upon his Application to the Clerk of this House; and also Summons's for such Evidences as he may apply for.

On Application of Mr. Priggs, Leave is given him to make his Defence in Writing.

ORDERED, That the Matter be heard at the Bar of this House on Thursday next, at the Sitting of the House.

Mr. Handy brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act to empower the Justices of Somerset and Worcester Counties to levy on the taxable Inhabitants of Stepney Parish, in said*



*said Counties, the Sum of Sixty Thousand Pounds of Tobacco, for the Uses therein mentioned: Which was read the First and Second Time, by an especial Order, and committed for Amendment.*

The Petition of the Vestrymen, Churchwardens and Parishioners of *Stepney Parish*, praying that an Act may pass to establish and confirm the Church at *Green-hill* the Parish Church, was read the Second Time and granted.

ORDERED, That *Benjamin Belt* and *John Hamilton* have Summons's for all such Evidences as they may apply for to the Clerk of this House.

On Motion, ORDERED, That Leave be given to bring in a Bill for the better regulating Attachments; and that *Mr. Johnson*, *Mr. Allen*, *Mr. Dennis*, *Mr. Rumsey*, and *Mr. Tilghman*, do prepare and bring in the same.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## W E D N E S D A Y, October 23d, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

The Bill, entitled, A Supplementary Act to the Act, entitled, *An Act for building a Parish Church in Queen Anne Parish, in Prince George's County*, was read a Second Time, passed, and sent to the Upper House by *Mr. Beall* and *Mr. Contee*.

The House being informed, that *Mr. Levin Gale*, a Delegate returned for *Somerset County*, was attending at the Door: ORDERED, That *Mr. Handy* and *Mr. Dennis* do go with that Gentleman to the Upper House to see him qualified.

They return, and acquaint Mr. Speaker they saw him qualified in the usual Manner.

The Gentleman took his Seat in the House.

The Petitions of fundry languishing Prisoners were read the First Time and ordered to lie on the Table.

*Mr. William Thomas* appeared in the House.

*George Plater*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, A Supplementary Act to the Act, entitled, *An Act for building a Parish Church, in Queen Anne Parish, in Prince George's County*; thus endorsed: "By the Upper House of Assembly, October 23d, 1771: Read the First and Second Time, by an especial Order, and will pass.

*Signed by Order,*

*U. SCOTT, Cl. Up. Ho."*

Which Bill was read here, and passed for engrossing.

On reading the Petition of *Robert Herner*, a languishing Prisoner in *Charles County Jail*, and a counter Petition, preferred by *Robert Buchanan*, Attorney in Fact for *James Buchanan*: ORDERED, That *Mr. Smallwood*, *Mr. Harrison*, *Mr. Grahame*, *Mr. Weems*, and *Mr. Johnson*, be a Committee to enquire into the Facts set forth in the said Petitions, and report the same as it shall appear to them to the House; and they have Power to send for Persons, Papers and Records.

The Petition of *Andrew Calter* of *Cecil County*, setting forth, that about the Year 1763, he became Security for *Thomas Palmer*, who was left Executor of *Thomas Elliott*, Sen. his Administration on *Elliott's Estate*; That the said Executor, by Reason of his Absence from the Province, the Want of Effects, and injudicious Method of administering such Effects of the Testator as actually came to his Hands, and by suffering them to be taken away and destroyed by other Persons; and also, by Reason of the said Executor's becoming insolvent, he conceives himself to be in great Danger of being charged with the Debts and Legacies remaining unpaid, and therefore praying the House to pass an Act to release him from the Bond which he executed as Security aforesaid, read and rejected.

*Mr. Mackall* brings in, and delivers to Mr. Speaker, a Bill, entitled, A Supplementary Act to the Act, entitled, *An Act for the building a Parish Church in Christ Church Parish, in Calvert County*: Which was read the First and Second Time, by an especial Order, and will pass.

The Bill, entitled, *An Act to empower the Justices of Somerset and Worcester Counties to levy on the taxable Inhabitants of Stepney Parish, in said Counties, the Sum of Sixty Thousand Pounds of Tobacco, for the Uses therein mentioned, and to establish the Church at Green-hill the Parish Church for said Parish*, was read, with the Amendments for which it had been committed, and will pass. Both which Bills were sent to the Upper House by *Mr. Mackall* and *Mr. Handy*.

On Motion, ORDERED, That Leave be given to bring in a Bill for amending and declaring the Law in the Cases therein mentioned; and that *Mr. Chase* and *Mr. N. Thomas* do prepare and bring in the same.

*Mr. Dennis* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for Trial of all Matters of Fact in the several Counties where they have arisen or shall arise*: Which was read the First Time and ordered to lie on the Table.

*Mr. Paca* brings in, and delivers to Mr. Speaker an Address to his Excellency, which was read, approved of, and ordered to be engrossed.

The Bill, entitled, *An Act for imposing a further additional Duty of Five Pounds current Money per Poll on all Negroes imported into this Province*, was read a Second Time and will pass.

It appearing to this House, that *Samuel Cookson*, of *Baltimore County*, in the Year 1768, preferred a Petition to the then Lower House of Assembly, setting forth, that he did, on or about the



the 19th Day of September 1763, purchase of a certain *William Bond*, for the Consideration of £. 900, his Dwelling Plantation, made up of several Tracts of Land: That the said *William Bond*, did, at the same Time, make and execute his Bond to the Petitioner, thereby obligating himself and his heirs to make and execute unto the said Petitioner, or his Assigns, a good and lawful Deed of Special Warranty, upon the Petitioner's paying the Sum of £. 500: That the Petitioner did pay unto the said *William Bond*, in his Lifetime, the aforesaid Sum of £. 500; and did also make him sundry Payments over and above the said Sum, towards a Second Payment, amounting to the Sum of £. 74: 12: 2: That he hath also paid and discharged to a certain *John Maule*, the Sum of £. 43: 7: 9 *Pennsylvania* Currency, being the Balance due on a Mortgage made of the said Lands by a certain *Thomas Bond*, Father to the said *William*: That the Petitioner hath also purchased of a certain *Phæbe Bond*, the Widow of the said *Thomas*, and Mother of the said *William*, her Right of Dower in the said Land, for the Consideration of Ten Pounds per Year: That the said *William Bond* died, without having made over or conveyed to the Petitioner the said Lands, leaving a Daughter, a Minor, of the Age of Two Years; and the Petitioner being willing and desirous to pay and discharge the Balance due from him, and conceiving himself to be without Remedy, both at Law and Equity; and therefore praying, a Bill might pass to establish his Title in the said Lands, in as full and ample Manner as if the said *William Bond* had conveyed the same, agreeable to the Terms of his Bond. It appearing also, that the said Petition was in 1769 referred to the Consideration of a Committee, and that that Committee reported the several Facts therein contained to be true: That in Consequence thereof, Leave was given to said *Cookson* to bring in a Bill pursuant to the Prayer of his Petition, which was brought in, and upon a Second Reading, referred to the Consideration of the next Session of Assembly: That no Person then appearing to prosecute the said Bill, nothing further was done therein.

It being now moved, that Leave may be given to the said *Cookson* to bring in a new Bill pursuant to the Prayer of his said Petition: Leave is given accordingly.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## T H U R S D A Y, October 24th, 1771.

**T**HE House met. All Members present as on Yesterday, except Mr. *Worthington*. The Proceedings of Yesterday were read.

Mr. *Hall* and Mr. *Hammond* appeared in the House.

*William Fitzhugh*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, A Supplementary Act to the Act, entitled, *An Act for the building of a Parish Church in Christ Church Parish, in Calvert County.* And,

The Bill, entitled, *An Act to empower the Justices of Somerset and Worcester Counties to levy on the taxable Inhabitants of Stepney Parish, in said Counties, the Sum of Sixty Thousand Pounds of Tobacco, for the Uses therein mentioned, and to establish the Church at Green-hill the Parish Church for said Parish*; severally endorsed: "By the Upper House of Assembly October 23d, 1771: Read the First and Second Time, by an especial Order and will pass.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

Which Bills were here read and passed for engrossing.

The Order of the Day for hearing the Matter relative to Mr. *John Frederick Augustus Priggs*, being read: ORDERED, That the same be heard at the Bar of this House at Three o'Clock this Afternoon.

*George Stuart*, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of *Elizabeth Williams*, of *Baltimore* County, praying that an Act may pass to empower her to make Conveyances of sundry Tracts of Land in the said Petition mentioned, which her Husband, *George Williams*, in his Lifetime, contracted for, in Order that she might thereby be enabled to pay the Debts of the said *George Williams*, and the several Legacies bequeathed by him to his Children.

Which was read and referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them, to the House; and Mr. *Rumsey*, Mr. *Paca*, and Mr. *Thomas Wright*, are appointed a Committee accordingly; and they have Power to send for Persons, Papers and Records.

He also delivered to Mr. Speaker, a Petition of the Rector, Vestrymen, Wardens, and sundry Inhabitants of *All Hallows* Parish, in *Worcester* County, praying that an Act may pass enabling the Justices to assess, not less than Thirty-two Thousand Pounds of Tobacco, on the taxable Inhabitants of that Parish, for the erecting and building a Chapel of Ease, at or near *Johnson's Mill*, in said Parish. Which was read and granted; and Leave given to bring in a Bill pursuant to the Prayer of the said Petition.

ORDERED, That Mr. *Allen*, Mr. *Chaille*, Mr. *Holland*, and Mr. *Robins*, do prepare and bring in the same.

Mr. *Tilghman* brings in, and delivers to Mr. Speaker the following engrossed Address:



To his EXCELLENCY ROBERT EDEN, Esquire, Governor and Commander in Chief  
in and over the Province of Maryland.

The humble ADDRESS of the House of DELEGATES.

May it please your Excellency,

UPON Consideration of that Part of your Speech which relates to the criminal Law, we do not think a general Revival thereof necessary; but as your Excellency was pleased to inform the late House of Assembly, that you had experienced Inconveniences from Want of Precision upon that Subject, we beg Leave to request your Excellency to point out any particular Defects which have fallen within your Observation; that the Law, where doubtful and defective, may be aided and made more perfect and plain.

Which was read and assented to, and signed by Order of the House by the honourable Speaker.

The Bill, entitled, *An Act to aid defective common Recoveries*, was read the Second Time, and the Question was put, That the said Bill do pass? Resolved in the Affirmative.

For the AFFIRMATIVE.

Messrs	{	Reeder,	Weems,	Moale,	Rumsey,	T. Wright,
		W. Thomas,	Smallwood,	Risteau,	Hall,	Chaille,
		Johnson,	Handy,	Deye,	Paca,	Holland,
		Chase,	Dennis,	Veazy,	Tilghman,	Allen,
		Grahame,	Gale,	Baxter,	N. Thomas,	Robins.
		Parian,	J. Richardson,	Ward,		

For the NEGATIVE.

Messrs	{	Gresham,	Tyler,	Contee,	Luckett,	Beatty.
		Beall,				

The Bill, entitled, *An Act for more effectually preventing the buying and selling of Offices, and to prevent simoniacal Contracts*, was read the Second Time and will pass. Which Bill, and the Bill for imposing a further additional Duty of Five Pounds per Poll on all Negroes imported into this Province, were sent to the Upper House by Mr. Paca and Mr. Johnson.

ORDERED, That Mr. Smallwood and Mr. Weems do acquaint his Excellency, that this House hath prepared an Address to be presented to him, and desires to know when and where he will be pleased to receive it.

They return, and acquaint Mr. Speaker, the Governor signified he would receive the Address in Half an Hour, in the Lobby of the Council Chamber.

ORDERED, That Mr. Chase and Mr. Tilghman do present the Address to his Excellency.

They return and acquaint Mr. Speaker they delivered the Address.

The Bill, entitled, *An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen*, was read the Second Time and committed.

Benedict Calvert, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of the Trustees for the Poor of Anne-Arundel County, setting forth, that they have, according to the Directions of an Act of Assembly, made in the Year 1768, entitled, *An Act for the Relief of the Poor within the several Counties therein mentioned*, used their utmost Endeavours to purchase Land whereon to build an Alms and Work-house for the Poor of said County; but that they have not been able to find any Owners of Land, near and convenient to the City of Annapolis, willing to dispose of the same for that Purpose: That there had been collected from the Inhabitants of Anne-Arundel County, in the Years 1769, 1770 and 1771, the Sum of £. 1849 : 7 : 9½, for the Purpose of erecting an Alms and Work-house in said County: That for several Years by-gone, the Inhabitants of Anne-Arundel County have been burthened with the Support of about 180 Poor: That by the best Computation they have been able to make, a convenient House for the Reception of One Hundred and Thirty poor People, besides Vagrants, cannot be built and compleatly finished for less than £. 3000, without including the Purchase of the Land; and therefore praying the Legislature to afford them such Relief, as on Consideration of the Premises, they shall think fit.

The Order of the Day for taking into Consideration the Matter relative to Mr. John Frederick Augustus Priggs, being read; ORDERED, That he be called in, and he appeared at the Bar accordingly; and after some Debate thereon, the House referred the further Consideration thereof till To-morrow Morning at the Sitting of the House.

The Order for taking into Consideration the Remonstrance of the Magistrates of Anne-Arundel County, is further referred till Saturday next.

*The House adjourns till To-morrow Morning 9 o'Clock.*

F R I D A Y, October 25th, 1771.

THE House met. All Members present as on Yesterday.  
The Proceedings of Yesterday were read.

G

Mr.



Mr. *W. Richardson*, Mr. *S. Wright*, Mr. *Sim*, and Mr. *Worthington*, appeared in the House. The Order of the Day being read, the House resumed the Consideration of the Matter relative to Mr. *John Frederick Augustus Priggs*, and after some Debate thereon, referred the further Consideration thereof till To-morrow Morning.

His Excellency communicates to Mr. Speaker the following Message.

GENTLEMEN,

A REVISION of the Criminal Law had been recommended in *May Session 1768* to the Assembly, then convened, by my worthy Predecessor, and at the Opening of a late Session, I also requested your Consideration of the same Subject.

From the Answers given to Col. *Sharpe*, and to myself, on those Occasions, as well as from other peculiar Circumstances, I inferred that a general Recommendation would be sufficient; but an Explanation of the Grounds, on which I have pressed you to consider the State of the Penal Law, being now desired, I must observe, that there is not, I apprehend, any precise invariable Rule established, by which the Extent of the Penal Statutes of *England* may be ascertained; and, therefore, in what Cases Punishment may be regularly inflicted in this Province, according to their Prescripts, is a Question, on which various Sentiments may be expected, and in Fact, have often occurred. Should the Position be admitted, that such of the Penal Statutes extend hither, as are suitable to the Circumstances of the Country, still what are, or are not thus suitable, may be, in many Instances, on a Consideration of Statutes denouncing even capital Punishment, in, at least, One Hundred and Sixty Cases, a very doubtful Question; and which being determinable by the Courts, seems moreover to admit too great Authority in the Judges, and to give too much Scope for Contrariety in the Decisions, which a rigorous or compassionate Disposition may influence; for Men's Qualities, when not controuled by fixed and established Provisions, will generally slide into their most deliberate and best formed Opinions. Doubts, at least, have been entertained in *England*, whether the positive Ordinances of the Penal System be suitable to the Circumstances of the Nation; whether, in many Instances, not too undistinguishing and sanguinary; but the Judges have no Authority to reject the Rule enjoined by the Legislature: Such Authority would elevate the judicial Power above its proper Rank; an Authority the Legislative will hardly ever be so incautious as to confer by Provisions, that such Penal Statutes, and such only shall be carried into Execution, as the Discretion of the Judges may adopt; but this seems to be the Result of the Position or Doctrine, that such Penal Statutes, and such only as suit our Circumstances extend hither. The following, among other Instances, may sufficiently evince, that the Rule of Adoption has not been uniform, in Respect of the Penal Statutes enacted before the Settlement of this Province.

Notwithstanding the Statutes of *Edward VIth*, the Act of 1744 was thought to be expedient, one of these Statutes comprehends other Offences, concerning which our local Acts are silent, though more alarming and atrocious than the stealing or burning a Shallop or Boat of Seventeen Feet Keel.

Notwithstanding the Statutes of *Elizabeth*, the Acts of 1692 and 1715 were enacted, the Statute of *James the I.* has been introduced by the Act of 1706, it might be very improper to be more explicit, if it be a just Observation "that Crimes are more effectually prevented by the Certainty than by the Severity of Punishment," the Uncertainty in Respect of the Extent and Force of the Penal Statutes must be extremely inconvenient.

The Feelings of Humanity cannot but be affected, though the positive Law be clear, where the Example of extreme Punishment becomes necessary; but when Crimes, however malignant, have been committed against social Rights, and the very Existence of positive Law for their Punishment is doubtful, my Situation must be too obvious to require Explication. Persons convicted on some *English* Statutes having been discharged with impunity, because the Extent of those Laws was doubted; I am persuaded that the Principle of the apparent Lenity not being as generally understood, as the Impunity has been observed, this Circumstance has produced a Degree of Flattering Reliance, that equal Tenderness would be shewn to Offenders convicted on Laws undubitably existent and operative; and thus the Uncertainty I have taken Notice of, by lessening the Dread of Punishment, has proved an insinuating Encouragement to the Commission of Crimes. Having thus briefly suggested on what Motives I recommended to your Attention the State of our Criminal Law, you will be pleased maturely to consider, whether it would not be more safe, prudent and expedient, after a due Examination of their Propriety and Fitness, to ascertain, by Act of Assembly, what Penal Statutes shall have the full Force of Laws here, than to leave this important Determination to the varying Construction, Discretion, or Opinions of others.

October 25, 1771.

ROB. EDEN.

Which was read.

*William Hayward*, Esq; from the Upper House, delivers to Mr. Speaker, a Bill, entitled, *An Act for preventing trivial Suits in the Provincial Court*; endorsed: "By the Upper House of Assembly, October 25th, 1771: Read the First and Second Time, by an especial Order, and will pass."

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here the First Time and ordered to lie on the Table.

*Daniel of St. Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act for imposing a further additional Duty of Five Pounds current Money per Poll on all Negroes imported into this Province*; thus endorsed: "By the Upper House of Assembly, October 24th, 1771: Read the First Time and ordered to lie on the Table."

Signed by Order,

U. SCOTT, Cl. Up. Ho.

"By



" By the Upper House of Assembly, *October 25th, 1771*: Read the Second Time and will pass.  
Signed by Order, U. SCOTT, Cl. Up. Ho."

Which Bill was read here and passed for engrossing.

Mr. *Parran* hath Leave of Absence till Monday next.

Mr. *Gresham* and Mr. *Reeder* hath Leave of Absence.

The Order of the Day for the House to resolve itself into a Committee of the whole House, to take into further Consideration the Expediency and the Ways and Means of issuing Bills of Credit, for the Improvement of the Province and the Advancement of the Trade thereof, being read, the House resolved itself into the said Committee accordingly; and after some Time spent therein, Mr. Speaker resumed the Chair, and Mr. *Tilghman*, Chairman of the said Committee, acquainted Mr. Speaker, that that Committee had finished their Enquiry, and had come to a Resolution, which the Committee had directed him to report to the House, which he read in his Place, and afterwards delivered in at the Table, where the same was read, and is as followeth:

" RESOLVED, That it is the Opinion of this Committee, that a Sum not exceeding 42,666 $\frac{2}{3}$  Dollars be appropriated out of the Interest arising from the Loan of Bills of Credit, for the establishing a Seminary of Learning within this Province."

Then the Question was put, that the House concur therewith? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messrs	{	Reeder,	Hammond,	Smallwood,	Beall,	Paca,
		W. Thomas,	Mackall,	Harrison,	Tyler,	T. Wright,
		Worthington,	Grahame,	Moale,	Contee,	Luckett,
		Johnson,	Parran,	Baxter,	Sim,	Beatty,
		Chase,	Weems,	Rumsey,	Hall,	

For the N E G A T I V E.

Messrs	{	Gresham,	J. Richardson,	Veazy,	So. Wright,	Holland,
		Handy,	W. Richardson,	Ward,	Earle,	Allen,
		Dennis,	Risteau,	Tilghman,	Chaille,	Robins.
		Gale,	Deye,	N. Thomas,		

On Motion, ORDERED, That Leave be given to bring in a Bill for a further Emission of Bills of Credit; and that Mr. *Johnson*, Mr. *Paca*, Mr. *Dennis*, Mr. *Hall*, Mr. *Chase*, Mr. *Rumsey*, Mr. *Handy*, Mr. *Hammond*, Mr. *Allen*, Mr. *Grahame*, Mr. *Tilghman*, and Mr. *Gale*, do prepare and bring in the same.

*The House adjourns till To-morrow Morning 9 o'Clock.*

S A T U R D A Y, *October 26th, 1771.*

THE House met. All Members present as on Yesterday, except Mr. *Parran* and Mr. *Reeder*. The Proceedings of Yesterday were read.

Mr. *Allen* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act to empower the Justices of Worcester County to levy on the taxable Inhabitants of All-Hallows Parish, in said County, the Quantity of Thirty-two Thousand Pounds of Tobacco, for the Uses therein mentioned*: Which was read the First and Second Time, by an especial Order, passed, and sent to the Upper House by Mr. *Allen* and Mr. *Chaille*.

Mr. *Beall* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for the Relief of the Sufferers at Bladensburg Warehouse*: Which was read the First Time and ordered a Second Reading on Wednesday next.

*Daniel Dulany*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act to empower the Justices of Worcester County to levy on the taxable Inhabitants of All-Hallows Parish, in said County, the Quantity of Thirty-two Thousand Pounds of Tobacco, for the Uses therein mentioned*; endorsed: " By the Upper House of Assembly, *October 26th, 1771*: Read the First and Second Time, by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which Bill was read here and passed for engrossing.

Mr. *Moale* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act to prevent the Exportation of Flour, Staves and Shingles, not merchantable, from the Town of Baltimore, or Fell's-Point, in Baltimore County, and to regulate the Weight of Hay and Measure of Grain, Salt, Flax-seed and Fire-wood within the said Town.*

Mr. *Contee* hath Leave of Absence till Wednesday next, and Mr. *Moale* till Monday next.

The Order of the Day being read, the House resumed the Consideration of the Matter relative to Mr. *John Frederick Augustus Priggs*, and after some Debate thereon, the Question was put, that Mr. *Priggs* be reprimanded and discharged upon Payment of Fees? Resolved in the Affirmative.

ORDERED, That Mr. *Beall*, Mr. *Hall*, and Mr. *Paca*, be a Committee to tax the Fees.

Mr. *Beall* brings in and delivers to Mr. Speaker the following Report.



28 VOTES AND PROCEEDINGS, OCTOBER 1771.

By the COMMITTEE appointed to tax the Fees and Allowances on the Complaint of John Hamilton and Benjamin Belt, against John Frederick Augustus Priggs, Deputy Surveyor of Prince George's County.

YOUR Committee, in Obedience to the Order of the Honourable House, have proceeded to tax the said Fees and Allowances as follow, viz.

To the Clerk for issuing Two Subpoenas, the one against Edward Magruder to testify, the other against the Defendant to appear and answer, at 3s each,	0	6	0
To the Clerk for a Copy of the Report, at Request of the Defendant,	0	4	0
To the Serjeant for serving the above Subpoenas,	0	6	0
To the Serjeant for the Hire of a Man and Horse to go down to the lower Part of Prince George's, 4 Days, at 10s per Day,	2	0	0
To the Messenger's Expences, and Horse Hire,	2	6	0
To John Hamilton for 8 Days Attendance at Three different Sessions, viz. 1769, 1770, 1771, at 5s	2	0	0
To Itinerent Charges for coming and going 4 Times to Prince George's 12 Days, at 5s	3	0	0
To Benjamin Belt for 6 Days Attendance at Two different Sessions, viz. 1770 and 1771, at 5s	1	10	0
To Itinerent Charges for coming and going 3 Times to Prince George's 9 Days, at 5s	2	5	0
To the Messenger riding Two Days to serve Summons on Edward Magruder, and Two Days Horse Hire and Expences,	1	15	0
	<u>£.</u>	<u>15</u>	<u>12</u> 0

All which is submitted to the Consideration of the Honourable House.

Signed by Order,

JOHN C. JONES, Cl.

Which was read a Second Time, and the House concurs therewith.

Mr. Priggs was then called to the Bar, and Mr. Speaker reprimanded him according to the Resolution of the House, and acquainted him, that he was discharged upon Payment of the Fees, agreeable to the above Taxation, which the Officers would give him an Account of.

The Serjeant at Arms informing this House, that John Frederick Augustus Priggs had refused to pay the Fees and Allowances before taxed, alleging that he ought not to pay them; which being acknowledged by said Priggs himself, it is thereupon ordered, that the said John Frederick Augustus Priggs be taken into the Custody of the Serjeant at Arms for a Contempt of the Authority of this House, and till he pay and discharge said Fees and Allowances, and that the Speaker issue his Warrant to the Serjeant accordingly; which Mr. Speaker did in the following Words.

By the LOWER HOUSE of ASSEMBLY, 26th October, 1771.

WHEREAS John Frederick Augustus Priggs is guilty of a Contempt of the Authority of this House, in refusing to pay the Fees taxed against him pursuant to the Order of this House; you are therefore hereby authorised and required, to take into your Custody the Body of the said John Frederick Augustus Priggs, for the Contempt aforesaid, and him for the same Contempt in your Custody safe keep, until he be discharged therefrom by Order of this House; and for your so doing this shall be your sufficient Warrant.

To the Serjeant at Arms attending the Lower House of Assembly.

Signed per Order of the House,

E. TILGHMAN, Speaker.

The House being informed, that Mr. Arnold Elzey, Deputy Surveyor of Somerset County, was attending at the Door in Obedience to the Order of this House of the 10th Instant; ORDERED, That he be called in; and he appeared accordingly.

The House having heard what Mr. Elzey had to say, discharged him without Payment of Fees.

The Order of the Day for taking into Consideration the Representation of the Justices of Anne-Arundel County, relative to the Publick Jail, being read; ORDERED, That the same be referred to Thursday next.

The House adjourns till Monday Morning 9 o'Clock.

M O N D A Y, October 28th, 1771.

THE House met. All Members present as on Saturday, except Mr. Gresham, and Mr. Hammond. The Proceedings of Saturday were read. Mr. Wootton appeared in the House.

The Bill, entitled, *An Act to prevent the Exportation of Flour, Staves and Shingles, not merchantable, from the Town of Baltimore or Fell's-Point, in Baltimore County, and to regulate the Weight of Hay, and Measure of Grain, Salt, Flax-seed and Fire Wood, within the said Town*, was read the first Time, and ordered to lie on the Table.

Mr. Smallwood brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act to remedy divers Defects in the Records of Charles County*; which was read the first Time, and ordered to lie on the Table.

A Bill, entitled, *An Act for confirming to Samuel Cookson, of Baltimore County, sundry Lands therein mentioned*, was read the first Time, and ordered to lie on the Table.

The



The Bill, entitled, *An Act to enable the Commissioners for emitting Bills of Credit, to pay to John Duckett, William Mills, John Peacock, and Anne Gaither, the Sums of Money therein mentioned,* read the first and second Time by an especial Order, and will pass,  
*The House adjourns till To-morrow Morning 9 o'Clock.*

T U E S D A Y, October 29th, 1771.

THE House met. All Members present as on Yesterday. The Proceedings of Yesterday were read. Mr. Jordan, and Mr. Weems, appeared in the House.

The House being informed, that Mr. John Adams, a Delegate returned for Somerset County, was attending at the Door; ORDERED, That Mr. Dennis, and Mr. Handy, do go with that Gentleman to the Upper House to see him qualified. They return and acquaint Mr. Speaker they saw him qualified in the usual Manner. The Gentleman took his Seat in the House.

The Order of the Day for taking into Consideration the Report of the Committee of Grievances of the 19th of November last being read; ORDERED, That the said Report be read; and it was read accordingly.

ORDERED, That the several Papers annexed to the said Report be read; and they were read accordingly.

ORDERED, That the same be referred for Consideration till next Session of Assembly.

The Bill, entitled, *An Act for preventing trivial Suits in the Provincial Court,* was read a second Time, and the Question was put, that Amendments be proposed to the Upper House? Resolved in the Negative.

For the N E G A T I V E.

Messrs	W. Thomas,	Handy,	Baxter,	Hall,	Holland,
	Jordan,	Dennis,	Ward,	Tilghman,	Allen,
	Worthington,	Gale,	Rumsey,	N. Thomas,	Robins,
	Mackall,	Jo. Richardson,	Beall,	T. Wright,	Luckett,
	Weems,	W. Richardson,	Tyler,	S. Wright,	Wootton,
	Harrison,	Veazy,	Sim,	Chaille,	

For the A F F I R M A T I V E.

Messrs	Johnson,	Smallwood,	Moale,	Deye,	Earle,
	Chase,	Adams,	Risteau,	Paca,	Beatty,
	Grahame,				

The Bill was then put to its Passage, and will pass, and was sent to the Upper House by Mr. Worthington, and Mr. Allen.

Mr. Smallwood brings in and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to enquire into the Facts set forth in the Petition of Thomas Colvill's Executors, and John Semple.

YOUR Committee, in Obedience to the Order of this Honourable House, have enquired into the Facts set forth in the said Petition, and do find, that John Colvill, late of Fairfax County in Virginia, being possessed of a Tract of Land in Frederick County, in this Province, called *Merryland*, containing Six Thousand Three Hundred Acres, made his last Will and Testament, bearing Date the Sixth Day of May, 1755; and by his said Will empowered his Brother Thomas Colvill to sell the said Tract of Land to pay his Debts. That the said Thomas Colvill, after the Death of the said John Colvill, did, for and in Consideration of £. 2500 Sterling Money, bargain and sell the said Land to John Semple, and passed his Bond for the Conveyance of the same, in the penal Sum of Five Thousand Pounds Sterling Money. That the said John Semple passed his Bond to the said Thomas Colvill, in an equal Penalty, for his entering into fresh Bond with good and sufficient Security for the Payment of Two Thousand Five Hundred Pounds Sterling Money, the Consideration Money aforesaid. That the said Thomas Colvill afterwards died without having received the said Consideration Money, or executed any Conveyance of the said Land to the said John Semple, and by his last Will and Testament appointed Frances Colvill, his Wife, George Washington, Esq; and John West, junior, Executors of his said Will. That the said John Colvill died considerably in Debt, and that the said Thomas Colvill sold the Land aforesaid, in Purviuance of the Power given by the Will of the said John Colvill.

All which is humbly submitted to the Consideration of this House.

Signed by Order,

JOHN COURTS JONES. Cl.

Which was read.

ORDERED, That the Petition of Frances Colvill, and others, be read; and it was read accordingly; and Leave given to the Petitioners to bring in a Bill pursuant to the Prayer of the said Petition.

Daniel of St. Thomas Jenifer, Esq; from the Upper House, delivers to Mr. Speaker, the Petitions of sundry languishing Prisoners in the several Jails therein mentioned: Which were read the First Time and ordered to lie on the Table.



A Petition of *Joseph Hobbs*, of *Anne-Arundel County*, setting forth, that, for the Term of 16 or 18 Years past, he had a free and undeniable Road, leading from his House to a Chapel, called *Poplar Spring Chapel*, and which Road he has always made Use of as a Chapel and Church Road, a Mill Road and a Market Road: That some Time last Spring, one *Levin Lawrence* deprived him of Access through said Road, by staking up the Gates thereon, and forewarning him coming that Way after: That since that Time he has been obliged to make Use of a Road to go to the above mentioned Places, which is near or quite unpassable at Times, and about a Mile further in Three Miles than usual, which he finds extremely inconvenient to him: That there does not more than Two Hundred Yards of the said Road run through the Land of the said *Levin Lawrence*; which Two Hundred Yards the Petitioner hath always kept in Repair, and still is willing to continue so to do, provided the House will empower him to keep the said Road open.

And, a Petition of the Trustees of the Poor in *Frederick County*, setting forth, that by the Power invested them by the Act of Assembly for the Relief of the Poor in the several Counties therein mentioned, they did purchase Ground, whereon were erected sundry Buildings, which they apprehended would have answered the Purposes intended by the said Act: That after the said Purchase, having Conveniencies for the Reception of the Poor, they were in Doubt whether the Law entitled the Trustees to admit them until Three Years expired, and applied to the then Members for the said County, for an Act that the Poor might be received immediately: That in Consequence of such Application, a Supplementary Law passed last Sessions, and the Poor and sundry Vagrants were received; but the Sessions breaking up late, the Law could not by the Trustees be procured; by which Means nothing was levied for the Support of the Poor: That since the House has been opened, and the Poor received, the Buildings are found inadequate to the Conveniencies necessary for the Poor of each Sex: That they thought it expedient to erect a large Building with suitable Conveniencies, which they contracted for under the Sanction of the First Law: That lessening the Taxation of the Supplementary Law, and not having a Copy of the Bill to support the Magistrates levying the Tax, they are likely to suffer, and therefore praying, that Act may pass to levy on the Inhabitants, the proceeding Year, a double Tax, to enable them to comply with their Contract with the Workmen; were severally read the First Time and ordered to lie on the Table.

The Petition of the Vestry and Churchwardens of *St. Luke's Parish*, in *Queen Anne's County*, was read a Second Time and referred for Consideration on Thursday next.

ORDERED, That *Mr. Hall*, *Mr. S. Wright*, *Mr. Tyler*, *Mr. Dennis*, and *Mr. Handy*, be added to the Committee appointed to enquire into the Facts set forth in the Petition of *Robert Horner*, and the counter Petition thereto; and that *Mr. Johnson* and *Mr. Grabame* be discharged therefrom.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## W E D N E S D A Y, October 30th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

*Mr. Hammond*, *Mr. Parran*, *Mr. Gresham*, *Mr. Chamberlaine*, *Mr. Contee*, and *Mr. Ennalls*, appeared in the House.

The House being informed, that *Mr. Robert Buchanan*, a Delegate returned for *Kent County* was attending at the Door; ORDERED, That *Mr. Gresham* and *Mr. Rumsey* do go with that Gentleman to the Upper House to see him qualified.

They return, and acquaint *Mr. Speaker* they saw him qualified in the usual Manner.

The Gentleman took his Seat in the House.

The Petition of *Ambrose Lawrence*, read a Second Time and rejected.

On Motion, ORDERED, That Leave be given to bring in a Bill for the Security of Purchasers and others, being Protestants, claiming by or from Aliens; and that *Mr. Wootten*, *Mr. Doye*, and *Mr. Hammond*, do prepare and bring in the same.

The Bill, entitled, *An Act to prevent the Exportation of Flour, Staves and Shingles, not merchantable, from the Town of Baltimore, or Fell's-Point, in Baltimore County, and to regulate the Weight of Hay and Measure of Grain, Salt, Flax-seed and Fire-wood within the said Town*, read a Second Time and committed.

*William Hayward*, Esq; from the Upper House, delivers to *Mr. Speaker*, a Petition of the Inhabitants of *St. Paul's Parish*, in *Baltimore County*, setting forth, that the Church at *Baltimore-Town*, in the said Parish, is so very small, that it is entirely unfit to accommodate the Parishioners in Time of Divine Service, and is very ancient and decayed, which renders it not worth repairing; and therefore praying, an Act of Assembly, empowering and requiring the Justices of *Baltimore County Court*, to levy on the taxable Inhabitants of the said Parish, by Two equal Assessments, a Sum not exceeding Three Hundred and Twenty Thousand Pounds of Tobacco, to be paid to the Vestrymen of the said Parish, and by them applied towards building a new Church at *Baltimore-Town* aforesaid: Which was read the First Time and ordered to lie on the Table.

*William Fitzhugh*, Esq; from the Upper House, delivers to *Mr. Speaker* the following Message:

By



By the UPPER HOUSE of ASSEMBLY, October 30th, 1771.

GENTLEMEN,

UPON Consideration of the Bill, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*, we find many Parts of it of such a Nature, as cannot, with any Reason or Justice, be passed as they now stand; but as the Welfare and Prosperity of the Province depend so much on the Success of this Bill, we desire a Conference with your House upon the Subject Matter thereof.

Signed by Order,

U. SCOTT, Cl. Up. Ho.

Which was read.

On a Second Reading the Bill for Trial of all Matters of Fact in the several Counties where they have arisen or shall arise, the Question was put, that the Part of the said Bill empowering the Provincial Court to order *Venires* to the Sheriff of *Anne-Arundel* County, for the Trial of Causes at Bar, be altered? Resolved in the Negative.

For the N E G A T I V E.

Messieurs	W. Thomas,	Gale,	Baxter,	Chamberlaine,	Chaille,
	Gresham,	Adams,	Ward,	T. Wright,	Holland,
	Buchanan,	J. Richardson,	Rumsey,	S. Wright,	Allen,
	Handy,	W. Richardson,	Tilghman,	Earle,	Robins.
	Dennis,	Veazy,	N. Thomas,		

For the A F F I R M A T I V E.

Messieurs	Jordan,	Mackall,	Harrison,	Beall,	Paca,
	Worthington,	Grahame,	Moale,	Tyler,	Lockett,
	Johnson,	Parran,	Risteau,	Sim,	Wootton,
	Chase,	Weems,	Deye,	Hall,	Beatty.
	Hammond,	Smallwood,			

The Bill was then read throughout, and put to the Passage, and upon a Division of the House, it was carried in the Affirmative.

On reading a Second Time the Message of this Day from the Upper House, by *William Fitzhugh*, Esq; the Question was put, that the following Question, *viz.* That this House agreeing with the Upper House in their Sentiment of the great Utility of the Bill for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees, do agree to a Conference thereupon, be now put? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messieurs	W. Thomas,	Grahame,	Adams,	Rumsey,	Holland,
	Jordan,	Parran,	J. Richardson,	Hall,	Allen,
	Gresham,	Weems,	W. Richardson,	N. Thomas,	Robins,
	Buchanan,	Handy,	Ward,	T. Wright,	Ennalls.
	Hammond,	Dennis,	Baxter,	So. Wright,	
	Mackall,	Gale,	Veazy,	Chaille,	

For the N E G A T I V E.

Messieurs	Worthington,	Harrison,	Beall,	Paca,	Lockett,
	Johnson,	Moale,	Tyler,	Tilghman,	Wootton,
	Chase,	Risteau,	Contee,	Chamberlaine,	Beatty.
	Smallwood,	Deye,	Sim,	Earle,	

Then the Question was put, That this House agreeing with the Upper House in their Sentiment of the great Utility of the Bill for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees, do agree to a Conference thereupon? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messieurs	W. Thomas,	Grahame,	Adams,	Ward,	So. Wright,
	Jordan,	Parran,	J. Richardson,	Rumsey,	Chaille,
	Gresham,	Weems,	W. Richardson,	Hall,	Holland,
	Buchanan,	Handy,	Ennalls,	N. Thomas,	Allen,
	Hammond,	Dennis,	Veazy,	T. Wright,	Robins.
	Mackall,	Gale,	Baxter,		

For the N E G A T I V E.

Messieurs	Worthington,	Harrison,	Beall,	Paca,	Lockett,
	Johnson,	Risteau,	Tyler,	Tilghman,	Wootton,
	Chase,	Moale,	Contee,	Chamberlaine,	Beatty.
	Smallwood,	Deye,	Sim,	Earle,	

ORDERED,



32 VOTES AND PROCEEDINGS, OCTOBER 1771.

ORDERED, That Mr. Hall, Mr. Hammond, Mr. Grahame, Mr. Dennis, Mr. S. Wright, Mr. N. Thomas, and Mr. Allen, do prepare and bring in a Message to the Upper House, in answer to their Message of this Day by William Fitzhugh, Esq;

The Order of the Day for reading a second Time the Bill for Relief of the Sufferers at Bladensburg Warehouse is referred till To-morrow Morning.

*The House adjourns till To-morrow Morning 9 o'Clock.*

T H U R S D A Y, October 31st, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

The Petition of the subscribing Inhabitants in and near the Town of Bladensburg, in Prince George's County, was read a Second Time: ORDERED, That the said Petition be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them to the House; and Mr. Beall, Mr. Tyler, and Mr. Johnson, are appointed a Committee accordingly; and they have Power to send for Persons, Papers and Records.

Mr. Lockett brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act to prevent the Exportation of Flour, not merchantable, from George-Town, in Frederick County*; which was read the First Time, and ordered to lie on the Table.

The Bill, entitled, *An Act for the Trial of all Matters of Fact in the several Counties where they have arisen or shall arise*, sent to the Upper House by Mr. Allen and Mr. N. Thomas.

The following Message,

By the LOWER HOUSE of ASSEMBLY, October 31, 1771.

May it please your HONOURS,

IN Answer to your Message of Yesterday by William Fitzhugh, Esq; this House esteeming the Bill, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*, liable to no Objection, but joining in Sentiment with your Honours of the great Utility of that Bill, and that the Welfare and Prosperity of the Province depend much on the Success thereof, have agreed to a Conference thereupon: And in Order thereto have appointed Mr. Grahame, Mr. Tilghman, Mr. Johnson, Mr. Hall, Mr. Chase, Mr. Hammond, and Mr. Dennis, as Conferrees from this House, to join any Members your House shall appoint for that Purpose.

*Signed by Order,*

JOHN DUCKETT, Cl. Lo. Ho.

Being prepared, was sent to the Upper House by Mr. Hall and Mr. Handy.

The Bill, entitled, *An Act to remedy divers Defects in the Records of Charles County*, was read a Second Time, passed, and sent to the Upper House by Mr. Smallwood and Mr. Harrison.

On Motion, ORDERED, That Leave be given to bring in a Bill for the Publication of the Laws of this Province, and for the Encouragement of Anne Catharine Green of the City of Annapolis, Printer; and that Mr. Grahame, Mr. N. Thomas, Mr. Hall, and Mr. Allen, do prepare and bring in the same.

The Bill, entitled, *An Act for the Relief of the Sufferers at Bladensburg Warehouse*, was read a Second Time, and the Question was put, That the said Bill be now put to its Passage? Resolved in the Negative.

The Order of the Day for taking into Consideration the Remonstrance of the Justices of Anne-Arundel County, being read, the same is referred till To-morrow.

*The House adjourns till To-morrow Morning 9 o'Clock.*

F R I D A Y, November 1st, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

The Bill, entitled, *An Act to prevent the Exportation of Flour, not merchantable, from George-Town, in Frederick County*, read a Second Time, passed, and sent to the Upper House by Mr. Wootton and Mr. Lockett.

The Bill, entitled, *An Act to prevent the Exportation of Flour, Staves, &c. from Baltimore-Town, or Fell's-Point*, read with the Amendments, for which it had been committed, passed, and sent to the Upper House by Mr. Moale and Mr. Risseau.

The Petition of Dr. Thomas Hamilton, of Prince-George's County, which was referred from last to this Session, read and rejected.

Mr. Reeder appeared in the House.

John Ridout, Esq; from the Upper House, delivers to Mr. Speaker, an engrossed Bill, entitled, *An Act for preventing trivial Suits in the Provincial Court*; thus endorsed: "By the Upper House of Assembly, November 1st, 1771: Read and assented to."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho.  
Which



Which was read here and assented to.

*Daniel of Saint Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker the Petitions of sundry languishing Prisoners in the several County Jails therein mentioned, with a List of their Names; which List was thus endorsed: "By the Upper House of Assembly, Nov. 1st, 1771: Read the Petitions, of which this is a List, and referred the same to the Consideration of the Lower House of Assembly.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

And a Petition of *Samuel Litten*. Which was read.

ORDERED, That the same be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them to the House; and Mr. *Allen*, Mr. *Paca*, Mr. *Moale*, Mr. *Deye*, Mr. *Risteau*, and Mr. *Mackall*, are appointed a Committee accordingly, and they have Power to send for Persons, Papers and Records.

*William Hayward*, Esq; from the Upper House, delivers to Mr. Speaker the following Message.

By the UPPER HOUSE of ASSEMBLY, November 1st, 1771.

GENTLEMEN,

THIS House hath appointed the Honourable *Benedict Calvert*, *Daniel Dulany*, *John Ridout*, *John Beale Bordley*, and *William Hayward*, Esquires, to join the Members named by your House in a Conference, as agreed to in your Message of Yesterday, by Messrs. *Hall* and *Handy*.

Signed by Order,

U. SCOTT, Cl. Up. Ho.

On a Second Reading the Petitions of sundry languishing Prisoners in the several County Jails therein mentioned; ORDERED, That Mr. *Beall*, Mr. *Grahame*, and Mr. *Mackall*, do prepare and bring in a Bill for the Relief of certain languishing Prisoners in the several Jails therein mentioned.

The Bill, entitled, *An Act for confirming to Samuel Cookson of Baltimore County, sundry Lands therein mentioned*, read a Second Time, passed, and sent to the Upper House by Mr. *Deye* and Mr. *Moale*.

The Order of the Day for taking into Consideration the Remonstrance of the Justices of *Anne-Arundel* County, being read, the same is referred till To-morrow.

ORDERED, That an Hearing on the Petition of *Nathaniel Giles* be heard at the Bar of this House on Tuesday the 12th Instant, and that the Parties have Summons's for all such Evidences they may apply to the Clerk of this House for.

The House adjourns till To-morrow Morning 9 o'Clock.

SATURDAY, November 2d, 1771.

THE House met. All Members present as on Yesterday, except Mr. *Gresham*. The Proceedings of Yesterday were read.

Mr. *N. Thomas* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for the speedy and effectual Publication of the Laws of this Province, and for the Encouragement of Anne Catharine Green, of the City of Annapolis, Printer*: Which was read the First Time and ordered to lie on the Table.

ORDERED, That the Order of the Day for taking into Consideration the Remonstrance of the Justices of *Anne-Arundel* County, be read; and it was read accordingly.

ORDERED, That the Remonstrance be read; and it was read accordingly.

Upon reading whereof, the Question was put, that this Province will allow a reasonable Part of the Expence of building a new Prison for the Use of the Publick, and *Anne-Arundel* County, and burthen *Anne-Arundel* County with the Residue? Resolved in the Affirmative.

For the AFFIRMATIVE.

Messrs	{	W. Thomas,	Grahame,	J. Richardson,	Rumsey,	Tilghman,
		Jordan,	Parran,	W. Richardson,	Beall,	N. Thomas,
		Buchanan,	Smallwood,	Ennalls,	Tyler,	Chamberlaine,
		Worthington,	Harrison,	Moale,	Contee,	So. Wright,
		Johnson,	Handy,	Risteau,	Sim,	Earle,
		Chafe,	Dennis,	Veazy,	Hall,	Wootton,
		Hammond,	Gale,	Baxter,	Paca,	Beatty.
		Mackall,				

For the NEGATIVE.

Mess	{	Reeder,	Adams,	T. Wright,	Holland,	Robins,
		Weems,	Ward,	Chaille,	Allen,	Luckett.

The Question was put, that this Province will allow One Fourth Part of the Expence of building a new Prison for the Use of the Publick, and *Anne-Arundel* County, and burthen the said County with the Residue? Resolved in the Affirmative.



## For the A F F I R M A T I V E.

Messieurs	Reeder,	Dennis,	Veazy,	So. Wright,	Robins,
	W. Thomas,	Gale,	Ward,	Earle,	Lockett,
	Buchanan,	Adams,	Tyler,	Chaille,	Wootton,
	Parran,	W. Richardson,	Tilghman,	Holland,	Beatty.
	Harrison,	Ennalls,	Chamberlaine,	Allen,	
	Handy,	Risteau,	T. Wright,		

## For the N E G A T I V E.

Messieurs	Jordan,	Hammond,	Moale,	Beall,	Hall,
	Worthington,	Mackall,	Baxter,	Contee,	Paca,
	Johnson,	Grahame,	Rumsey,	Sim,	N. Thomas.
	Chafe,	J. Richardson,			

ORDERED, That the Petition of *Gilbert Barrow* be heard at the Bar of this House on Monday the 11th Instant; and that the Wife of the said *Gilbert Barrow* be served with a Copy of the said Petition, and of this Order by Tuesday next at farthest.

ORDERED, That the Parties, upon their Application to the Clerk of this House, have Summonses for such Witnesses they may think necessary.

*William Hayward*, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of sundry subscribing Protestant Dissenters in *St. Paul's Parish*, in *Baltimore County*, setting forth, that the Vestrymen and sundry Inhabitants of the said Parish had petitioned the Legislature, and set forth, "that the Church of the said Parish is old, incommodious, and too small, and had prayed that a Law might pass to enable the Justices of the said County to levy a very large Quantity of Tobacco upon the Inhabitants of the said Parish, to build a new one:" That they were fully sensible of the Want of a larger Church in *Baltimore-Town*; but as they were constrained, from conscientious Motives, to conform to the established Church, prayed the House to exempt them from the Payment of any Tax whatsoever for building the said Church; and also to hear them by their Counsel in Support of their Petition: Which was read; and the Question was put, that the said Petition be rejected? Resolved in the Affirmative.

## For the A F F I R M A T I V E.

Messieurs	Reeder,	Parran,	Moale,	Hall,	Chaille,
	W. Thomas,	Harrison,	Risteau,	Paca,	Holland,
	Jordan,	Handy,	Veazy,	Tilghman,	Allen,
	Buchanan,	Dennis,	Baxter,	N. Thomas,	Robins,
	Worthington,	Gale,	Ward,	Chamberlaine,	Lockett,
	Johnson,	Adams,	Rumsey,	T. Wright,	Wootton,
	Chafe,	J. Richardson,	Beall,	So. Wright,	Beatty.
	Hammond,	W. Richardson,	Tyler,	Earle,	
	Grahame,	Ennalls,			

## For the N E G A T I V E.

Mr. Deye.

*William Hayward*, Esq; also delivered to Mr. Speaker, a Petition of *Christian Strowder*, setting forth, that he has, at a great Expence and Trouble, erected a Dam for a Grist and Saw-Mill across *Monocacy River*: That since the doing whereof, he finds that an Act of Assembly passed in the Year 1768, "for preventing the erecting of Fish-Wares, Fishing Dams and other Erections which might obstruct the Water Carriage in the said River;" and setting forth, that the said Law was entirely unknown to him at the Time he erected his said Dam; and therefore praying, that forasmuch as he is willing, at his own Expence, to alter his Dam in such a Manner as to let up and down any Vessel or Water Carriage which may be used in said River for the Transportation of Iron, Wheat or any Thing else, that a Law may pass for his Relief, so as to save him and his Family from immediate Ruin: Which was read the First Time and ordered to lie on the Table.

On Motion, Mr. *Rumsey*, Mr. *Johnson*, Mr. *Deye*, Mr. *Paca*, Mr. *Wootton*, and Mr. *Risteau*, are appointed a Committee to enquire into the Expediture of the Monies granted for building a Court-House and Prison in the Town of *Baltimore*, in *Baltimore County*, and report the same to the House.

On Motion, ORDERED, That Leave be given to bring in a Bill for the Division of *Prince-George's Parish*, in *Frederick County*; and that Mr. *Wootton*, Mr. *Deye*, Mr. *Mackall*, Mr. *Lockett*, and Mr. *Beatty*, do prepare and bring in the same.

Mr. *Beall* and Mr. *T. Wright* have Leave of Absence.

Mr. *Risteau* and Mr. *Moale* have Leave of Absence till Monday next.

*The House adjourns till Monday Morning 9 o'Clock.*

M O N D A Y, November 4th, 1771.

THE House met. All Members present as on Saturday, except Mr. *Beall*, Mr. *Sim*, and Mr. *Thomas Wright*. The Proceedings of Saturday were read. Mr.



Mr. *Gresham* appeared in the House.

On Motion, Mr. *Allen*, Mr. *J. Richardson*, Mr. *W. Richardson*, and Mr. *Paca*, are appointed a Committee to enquire into the Facts set forth in the Petition of *Charles Dickinson* and others, and report the same to the House.

The Petition of the Trustees for the Poor of *Frederick County*, was read a Second Time and granted. Leave given to bring in a Bill pursuant to the Prayer of the said Petition.

ORDERED, That Mr. *Lockett*, Mr. *Wootton*, and Mr. *Mackall*, do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Bill to prohibit raising Swine and Geese in *George-Town*, in *Frederick County*; and that Mr. *Lockett*, Mr. *Beatty*, Mr. *Wootton*, and Mr. *Mackall*, do prepare and bring in the same.

Mr. *James Hackman*, at his own Request, is discharged from any further Attendance as a Committee Clerk.

The Bill, entitled, *An Act to empower the Commissioners for emitting Bills of Credit, to pay to John Duckett, William Mills, John Peacock, and Anne Gaither, the Sums of Money therein mentioned.*

And the Paper Bill, entitled, *An Act for preventing trivial Suits in the Provincial Court*, were sent to the Upper House by Mr. *Worthington* and Mr. *Dye*.

Mr. *Grahame*, one of the Conferrees appointed by this House, acquaints Mr. Speaker, that the Conferrees of both Houses had met, and that the Conferrees of the Upper House had delivered to the Conferrees of this House the following Propositions:

THE Bonds of Inspectors to be put in suit as heretofore; Probat of the Execution of the Bond to be recorded with the Bond.

If Inspector rechosen neglect to give Notice, such Neglect to be considered as an actual refusal.

The Inspection to be closed at the Time fixed by the late Inspection Act.

Inspectors Notes to be paid to the Owner of the Tobacco or the Bearer.

The Penalties to be, in similar Cases, as in the late Act, and so Prosecutions and Mode of Recovery.

Tobacco inspected under private Agreement not to be a good Tender, and to be exported in a limited Time.

The Sale of Tobacco to be in open Court.

The Allowance on Receipts to be explained so as clearly to relate to cropped Tobacco only.

The Clerks of the County Courts not to be obliged to any Attendance, but in Court and in their Offices, and to be paid for their Services, whether there shall be any Profits or not.

Magistrates to be paid for their Attendance on all Occasions.

Judgments on Bonds to be entered up as the Use or Practice hath been.

The Party against whom any Judgment shall pass, and who shall therein be liable to Costs, to pay what the other Party shall have paid, or shall be liable to pay.

Gold and Silver to be under a similar Regulation to that of the last Paper Money Act.

The Fees of Officers and Lawyers to be regulated as they were by the last Inspection Law, saving that all Persons may discharge them by the 10th of *April* yearly, in Gold and Silver, according to the Regulation thereof; and if not so discharged in Money, then Tobacco (if the Person charged be a Maker thereof) to be paid.

Execution and Time of payment by the Sheriffs to be as provided by the said late Act.

The Clergy to be left out of the Bill in all Respects.

Provision to be made for the Payment of Fees now due.

*John Beale Bordley*, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of sundry Inhabitants of *Baltimore-Town*.

On Motion, ORDERED, That the Propositions from the Conferrees of the Upper House be now taken into Consideration.

On a Second Reading the said Propositions the House came to the following Resolutions:

PART of the First Proposition, that the Bonds of Inspectors be put in Suit as heretofore, rejected. The latter Part of said Proposition, that Probat of the Execution of the Bond be recorded with the Bond, agreed.

The Second Proposition, that if Inspectors rechosen neglect to give Notice, such Neglect be considered as an actual Refusal, rejected.

The Third Proposition, that the Inspection be closed at the Time fixed by the late Inspection Act, rejected.

The Fourth Proposition, that Inspectors Notes be payable to the Owner or Bearer, agreed.

The Fifth Proposition, that Penalties be, in similar Cases, as in the late Act, and so Prosecutions and Mode of Recovery, rejected.

The Sixth Proposition, that Tobacco inspected under private Agreement be not a good Tender, and to be exported in a limited Time, agreed.

The Seventh Proposition, that the Sale of Tobacco be in open Court, agreed.

The Eighth Proposition, about Allowance on Receipts, agreed.

The Ninth and Tenth Propositions, relative to the Clerk of the County and Magistrates, agreed.

The Eleventh Proposition, that Judgments on Bonds be entered up as the Use or Practice hath been, wants Explanation. We take the Usage to be agreeable to our Clause, that Judgments on Bonds are entered in the Courts of Justice, Penalty released on Payment of Principal Interest and Costs.

The



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The Twelfth Proposition relative to Costs, rejected.

The Thirteenth Proposition, that Gold and Silver be under a similar Regulation to that of the last Paper Money Act, agreed.

The Fourteenth, Fifteenth and Sixteenth Propositions, relative to Officers and Lawyers Fees and the Clergy, unanimously rejected.

The Seventeenth and last Proposition, agreed, when a reasonable Mode can be settled to ascertain what Fees are now due.

ORDERED, That the above be delivered by the Conferrees of this House to the Conferrees of the Upper House.

The engrossed Bills, N<sup>o</sup>. 3, 4, 5, 6, 7, 8, 9, 10, were severally read and assented to, and sent to the Upper House with the Paper Bills thereof by Mr. Worthington and Mr. Weems.

Mr. Luckett brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act to prohibit raising Swine and Geese in George-Town, in Frederick County*: Which was read the First Time, and ordered to lie on the Table.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## T U E S D A Y, November 5th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

The Bill, entitled, *An Act to prohibit raising Swine and Geese in George-Town, in Frederick County*, read a Second Time, passed, and sent to the Upper House by Mr. Luckett and Mr. Beatty.

The Bill, entitled, *An Act for raising Four-pence Sterling on every Hog shead of Tobacco exported out of this Province, for the Support of an Agent at London, for the Service of this Province*, read a Second Time, and the Question was put, that the said Bill do pass? Resolved in the Affirmative.

### For the A F F I R M A T I V E.

Messieurs	Reeder,	Weems,	Ennalls,	Tyler,	Earle,
	Jordan,	Smallwood,	Moale,	Contec,	Chaille,
	Gresham,	Harrison,	Risteau,	Hall,	Holland,
	Buchanan,	Handy,	Deye,	Paca,	Allen,
	Worthington,	Gale,	Veazy,	Tilghman,	Robins,
	Johnson,	Adams,	Baxter,	N. Thomas,	Luckett,
	Mackall,	J. Richardson,	Ward,	Chamberlaine,	Beatty.
	Parran,	W. Richardson,	Rumsey,	So. Wright,	

### For the N E G A T I V E.

Mr. W. Thomas.

The said Bill was sent to the Upper House by Mr. Chamberlaine and Mr. Earle.

Benedict Calvert, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bills, N<sup>o</sup>. 3, 4, 5, 6, 7, 8, 9, 10, severally endorsed: "By the Upper House of Assembly, November 5th, 1771. The engrossed Bill, whereof this is the Original, read and assented to."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

William Fitzhugh, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act for confirming to Samuel Cookson, of Baltimore County, sundry Lands therein mentioned*; thus endorsed: "By the Upper House of Assembly, November 2d, 1771: Read the First Time and ordered to lie on the Table."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, November 4th, 1771: Read the Second Time and will pass, with the Amendment annexed."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

After the Word "paid" in the last Line of the last Page, add as follows, viz. "Saving to the Heirs of the said William Bond the Liberty of shewing Cause, if any the said Heirs have or can shew, to the Chancellor of this Province, for the Time being, at any Time within Six Months after the said Heirs shall arrive at the Age of Twenty-one Years, why the Contract and Obligation aforesaid, by the said Samuel Cookson entered into with the said William Bond, ought not to have been specifically performed; and upon such Cause shewn, to the Satisfaction of the said Chancellor, then and in such Case this Act shall be void, any Clause, Matter or Thing herein to the contrary notwithstanding."

Which was read here with the said Amendment and passed for engrossing.

A Bill, entitled, *An Act to remedy divers Defects in the Records of Charles County*; thus endorsed:

"By the Upper House of Assembly, November 1st, 1771: Read the First Time and ordered to lie on the Table."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, November 4th, 1771: Read the Second Time and will pass with the annexed Amendments."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

After the Word "Times" in the last Line of the Second Page, insert the Words "in his Office." After the Word "direct" in the Third Line of the Third Page, strike out all that follows to the End of the Fifth Line inclusive. After the Word "Commissioners" in the Sixth Line of the same Page, insert the Words "and Clerk."

Which was read with the Amendments and passed for engrossing.

Also,



Also, the Bill, entitled, *An Act to prevent the Exportation of Flour, not merchantable, from George-Town, in Frederick County*; thus endorsed: "By the Upper House of Assembly, November 1st, 1771: Read the First Time and ordered to lie on the Table.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, November 4th, 1771: Read the Second Time and will pass with the Amendments annexed.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

In the Third Line from the Bottom of the Third Page, instead of "Two Pounds" insert "One Pound." The same Amendment to be made in the Fifth and Tenth Lines of the Fourth Page. Before the Word "Potowmack" in the Tenth Line of the Fifth Page, insert "George-Town." After the Word "Exportation" in the Fourth Line from the Bottom of the Seventh Page, insert the Words "from out of Potowmack River." After the Word "Flour" in the Third Line from the Bottom of the Seventh Page, insert the Words "which shall be brought to George-Town aforesaid; and" Before the Word "examined" in the same Line, insert the Word "be." Leave out the Words "from out of Potowmack River" in the Second and Third Lines from the Bottom of the Seventh Page. After the Word "Oaths" in the Fourth Line from the Bottom of the Tenth Page, insert, "or Affirmations." Leave out the Word "make" in the Fourth Line from the Bottom of the last Page.

Which was read here with the Amendments, and passed for engrossing.

On Motion, ORDERED, That Leave be given to bring in an additional Supplementary Bill to the Act, entitled, *An Act for the Establishment of religious Worship in this Province according to the Church of England, and for the Maintenance of Ministers*; and that Mr. Mackall, Mr. Handy, Mr. Rumsey, Mr. Gale, and Mr. N. Thomas, do prepare and bring in the same.

Mr. Grahame brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act for the further Emission of Bills of Credit*; which was read the First Time, and ordered to lie on the Table.

The Bill, entitled, *An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen*, was read with the Amendments, for which it had been committed, passed, and sent to the Upper House by Mr. Smallwood and Mr. Parran.

Mr. Allen brings in and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to enquire into the Facts set forth in the Petition of Charles Dickinson, Robert Goldborough, Robert Harrison, and John Goldborough.

YOUR Committee, in Obedience to the Order of this Honourable House, have enquired into the Facts set forth in the said Petition, and do find, that the said Petitioners, with Mr. William Ennalls, were appointed Commissioners, by an Act of Assembly passed in September 1770, to contract and agree with Workmen to build a new Court-House in the Town of Cambridge, in Dorchester County. That they have so far proceeded in the Execution of the said Trust, as to engage Workmen to finish and complete the said building. That the Ground on which the present Court-House stands is too small to erect the new Court-House, so as to make it a commodious and convenient Building. That the said Ground wants an Addition of Thirty Feet in Front and Forty five Feet backwards. That the Lot adjoining to the said Ground upon which the present Court-House stands, is the Property of Henry Ennalls, Son and Heir of Henry Ennalls, late of the said County, deceased, who is now a Minor under the Age of Twenty-one Years; and that Part of the said Lot may be conveniently applied to make up the Deficiency of the present Court-House Ground.

That the Guardian and the nearest Friends and Relations of the said Infant have signified their Assent and Approbation, that Part of the said Infant's Lot may be applied for that Purpose for a reasonable Compensation. That the Sum of Fifty Pounds has been mentioned as a reasonable Satisfaction, which the said Guardian, Friends and Relations approve of and agree to.

Your Committee beg Leave to observe, that by the Act of Assembly aforesaid there was no Power given to the Commissioners to pull down the old Court-House, nor any Power given to the Clerk or Justices of the Court to remove the Records.

All which is humbly submitted to the Consideration of this Honourable House,

Signed by Order,

JAMES BROOKS, Cl. Com.

Which was read. The Petition of Charles Dickinson and others, was read, and Leave given to bring in a Bill pursuant to the Prayer of the said Petition.

ORDERED, That Mr. Ennalls, Mr. J. Richardson, Mr. W. Richardson, Mr. Johnson, Mr. Chase, and Mr. Paca, do prepare and bring in the same.

Mr. Harrison brings in and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to examine into the Truths of the several Facts and Allegations contained in the Petition of Robert Horner, and the counter Petition of Robert Buchanan, Attorney in Fact for James Buchanan.

YOUR Committee, in Obedience to the Order of the Honourable House, have examined into the Allegations set forth in said Petitions, and find, that the said Robert Horner is a Prisoner under Confinement in the common Jail of Charles County, at the Suit of James Buchanan, and Robert Buchanan his Attorney, as mentioned in said Horner's Petition. That your Committee is informed, that Samuel Hanson and John Winter became Securities for said Horner to James Weems of Calvert County, for One Hundred and Fifty Pounds Sterling. That some Time afterwards, the said Hanson apprehending Danger from his Securityship, paid the said Weems's Claim, and for the same, together with a further Sum due said Hanson from said Horner, took said Horner's Bond, with the said Winter his Security. That afterwards the said Horner, for the



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Indemnity of the said *Winter*, his Security at that Time for nigh Two Hundred and Fifty Pounds Sterling, executed a Deed of Mortgage for Eight or Ten Negroes. That upon some Consideration afterwards, the Reverend Mr. *Campbell* discharged said Mortgage, and took the Negroes so mortgaged in his Possession. That on the Third Day of *August*, Anno Domini Seventeen Hundred and Sixty-nine, the said *Horner* made a Deed of Trust for sundry Goods and Chatels, to *Richard Brown*, *Thomas John Claggett*, and *Cuthbert Bullett*, for the Purpose of fulfilling and complying with certain Marriage Settlements and other Agreements in said Deed recited, and the Residue of his Estate, after complying with said Agreements, for the Use and Benefit of the said *Horner's* Creditors, as may more fully appear by said Deed, produced by said *Buchanan* and hereto annexed. That your Committee is further informed, that some Time last Spring the said *Horner* made another Deed of Trust of all his Estate whatever, to *Richard Brown* and *Thomas Bond*, for the Benefit of his Creditors; and that the said Trustees have begun to execute said Trust, by selling Part said Estate for the Benefit of said *Horner's* Creditors. All which is submitted to the Consideration of the Honourable House.

Signed by Order,

JOHN C. JONES, Cl. Com.

Which was read.

The House adjourns till To-morrow Morning 9 o'Clock.

## W E D N E S D A Y, November 6th, 1771.

THE House met. All Members present as on Yesterday, except Mr. *Hammond*.

The Proceedings of Yesterday were read.

Mr. *Beatty* brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act to divide Prince George's Parish in Frederick County, and to erect one new Parish, by the Name of Christ Church Parish*; which was read the First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. *Beatty* and Mr. *Wootton*.

The Report brought in Yesterday by Mr. *Harrison*, was read a Second Time; and the Petition of *Robert Horner* was also read a Second Time, and granted.

The engrossed Bills No. 11 and 12, were severally read and assented to, and sent to the Upper House, with the Paper Bills thereof, by Mr. *Mackall* and Mr. *Moale*.

Mr. *Mackall* brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act for the Relief of certain Prisoners in the several Jails therein mentioned*; which was read the First Time, and ordered to lie on the Table.

Mr. *Allen* brings in and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to enquire into the Facts set forth in the Petition of Samuel Litten.

YOUR Committee beg Leave to inform this Honourable House, that the only Evidence offered to ascertain the Facts set forth in the said Petition, is a Deed of Bargain and Sale, bearing Date the Fifth Day of *March*, Seventeen Hundred and Seventy, which appears to have been executed by *James Litten* to the said *Samuel Litten* for the Land mentioned in the said Petition. That the said Deed expresses a Consideration of Forty-eight Pounds *Pennsylvania* Money, and the Receipt of the said Money is endorsed upon the said Deed. That the said Deed appears to have been executed before several Witnesses and duly acknowledged, but not recorded.

Your Committee beg Leave further to inform this Honourable House, that upon the Petitioner's own State of his Case, the said *James Litten*, when he executed the said defective Deed, was Tenant in Tail only of the Land mentioned in the said Deed.

All which is humbly submitted to the Consideration of this Honourable House.

Signed by Order,

JOHN COURTS JONES, Cl.

Which was read; and the Petition of *James Litten* was read, and referred for further Consideration on the Second Tuesday of next Session.

*George Plater*, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bill No. 12; thus endorsed: "By the Upper House of Assembly, Nov. 6th, 1771: The engrossed Bill, "whereof this is the Original, read and assented to,

Signed by Order,

U. SCOTT, Cl. Up. Ho."

And, the Bill, entitled, *An Act to prohibit raising Swine and Geese in George-Town, in Frederick County*; thus endorsed: "By the Upper House of Assembly, Nov. 5, 1771: Read the First "and Second Time by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here, and passed for engrossing.

Mr. *Contee* brings in and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to enquire into the Facts set forth in the Petition of Frank Leake and George Digges.

YOUR Committee, in Obedience to the Order of this Honourable House, have enquired into the Facts set forth in the said Petition, and do find, that the said *Charles Digges* died seized in Fee of the Lot of Ground in the said Petition mentioned. That a considerable Time before his Purchase and Seisin of the said Lot of Ground, he made his last Will and Testament, and devised all his Estate, Real and Personal, to *William Digges* his Father, and appointed him Executor



Executor of his said Will and Testament. That the said *William Digges* renounced the Executorship, and Letters Testamentary were granted to the said *Frank Leeke* and *George Digges*, who have fully administered the Personal Estate of the said *Charles Digges* in the Payment of his Debts. That considerable Debts still remain unpaid, as well upon Specialty as simple Contract. That the said *Charles Digges* neglected to republish his said Will; and that the said Lot of Ground devolved by Descent upon *Thomas Digges*, jun. as Heir at Law to the said *Charles Digges*; and that the said *Thomas Digges* is beyond Sea, in Parts unknown, and in all Probability will never return to this Province.

All which is humbly submitted to the Consideration of the Honourable House.

Signed by Order,

JAMES BROOKS, Cl. Com.

Which was read; and the Petition of *Frank Leeke* and *George Digges* was read and granted, and Leave given to the Petitioners to bring in a Bill pursuant to the Prayer of the said Petition.

*Daniel of Saint Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker a Petition of *Jane Ridgely*, Widow and Executrix of *Nicholas Greenberry Ridgely*, late of *Anne-Arundel* County, deceased, praying an Act may pass to enable her to convey a Tract of Land in Fee Simple, called *Norway*, to *George Scott*, the Son and Heir at Law of *George Scott*, late of *Prince George's* County, deceased; which Tract of Land the said *Nicholas Greenberry Ridgely* had contracted with the said *George Scott* for in his Lifetime. Which was read: ORDERED, That the same be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them to the House; and Mr. *Worthington*, Mr. *Johnson*, Mr. *Chase*, and Mr. *Hammond*, are appointed a Committee accordingly, and they have Power to send for Persons, Papers and Records.

Mr. *Grahame* from the Conference, delivers to Mr. Speaker the following Paper from the Conferrees of the Upper House.

I. PROPOSITION, This adhered to, because it does not appear that any Inconvenience hath arisen from the former Mode.

II. Longer Time may be allowed to rechosen Inspectors to give Notice, or they may be allowed to lodge the Notice with the Sheriffs of their respective Counties in the Time limited by the Bill, to be by them forwarded with convenient Speed to the Clerk of the Council, and if Notice be not so given, or lodged; the Neglect to be considered as an actual Refusal.

III. Adhered to.

V. Adhered to.

XI. It was thereby meant that Plaintiffs should have the same Liberty as heretofore in entering Judgments, but that where by Consent or Agreement, a Release of Penalty shall be entered, the Sheriff shall not levy nor charge Commission on a larger Sum than the Terms of the Release shall require, and in such Case also the Sheriff shall not be liable in any Action of Escape, for a larger Sum than the Terms of the Release shall require the Payment of, and Interest thereon.

XII. Adhered to.

XIV. Adhered to, except that the Time for Payment of Money, instead of the 10th of April, may be extended to the 10th of June.

XV. Adhered to.

XVI. From an Assurance that the Bill would not finally pass in Regard to the Clergy, on the general Alternative given by it, this Proposition appeared to be expedient, in order to prevent any possible Disappointment on this Account; if however, instead of leaving the Clergy altogether out of the Bill, on a Consideration of the Convenience to Farmers and others, who do not make Tobacco, and effectually to prevent their Oppression, it should be thought proper to provide, that the Clergy's Dues may be discharged in the Manner directed by the late Inspection Act, or that the Clergy should be included in the Bill with Respect to the Farmers and others, not making Tobacco, and subject to the Regulation of the said Act in that Behalf, and with Respect to the Planters be altogether excluded: The Upper House will make no Objection in any of the above Cases.

The Question was put, that the Question be now put, That the following Answer be given to the Conferrees of the Upper House to their last Propositions, viz.

AFTER what passed between the Two Houses at the last Session of Assembly, and the Propositions that were then agreed upon, relative to the Officers, Lawyers and Clergy, we did not expect your Honours would have made Propositions so widely different at this Session, on the same Subject. We are instructed not to agree to them. We esteem those Points the most material of any that remain unsettled; and altho' we are extremely desirous of bringing about a Regulation of the Staple, and providing a handsome Support for the Officers and Clergy; yet if your Honours still decline a Conference on the new Table of Fees, which we consider as an Explanation and Correction of the old Table, and do adhere to the 14th, 15th, and 16th Propositions, we have no Hopes of bringing about the Passage of a Bill, allowed on all Hands to be of great Importance to the Welfare and Happiness of the People. Therefore upon your Honours declaring your fixed Resolution to adhere, an End may be put to this Conference.

Resolved in the Affirmative.



40 VOTES AND PROCEEDINGS, OCTOBER 1771.

For the AFFIRMATIVE.					
Messrs	Reeder,	Graham,	J. Richardson,	Paca,	Holland,
	W. Thomas,	Parran,	W. Richardson,	N. Thomas,	Allen,
	Jordan,	Weems,	Ennalls,	Chamberlaine,	Robins.
	Gresham,	Dennis,	Veazy,	So. Wright,	
	Buchanan,	Gale,	Baxter,	Earle,	
	Mackall,	Adams,	Hall,	Chaille,	

For the NEGATIVE.					
Messrs	Worthington,	Harrison,	Deye,	Contee,	Beatty.
	Johnson,	Handy,	Ward,	Tilghman,	
	Chase,	Moale,	Rumsey,	Lockett,	
	Smallwood,	Risteau,	Tyler,	Wootton,	

The Question was then put, That the said Paper be given as an Answer to the Conferrees of the Upper House to their last Propositions? Resolved in the Affirmative. Same Division as above.

ORDERED, That no new Business be moved for after Saturday next.  
The House adjourns till To-morrow Morning 9 o'Clock.

T H U R S D A Y, November 7th, 1771.

THE House met. All Members present as on Yesterday. The Proceedings of Yesterday were read. Mr. Hammond, Mr. Sim, and Mr. Thomas Wright, appeared in the House.

Mr. Grabame delivers to Mr. Speaker a Petition of Alexander Cumming, setting forth, that he preferred a Petition at the last Session of Assembly, in which he set forth, "That his Father, at the Time of his Death, had, within the City of Annapolis, a Lot of Ground with a Dwelling House and Out Houses thereon, in which Part of his Majesty's Forces were quartered in the Year Seventeen Hundred and Fifty-seven, who did considerable Damage thereto; and then prayed the House to take the Premises into Consideration, and make him such Allowance as should be thought reasonable for the Damage done the said Houses. That in Consequence of his Petition a Committee was appointed to examine into the Facts therein stated, who reported them to be true. That notwithstanding that Report, he failed of Redress, and his Petition was rejected, upon the Principle that it appeared by the Report there were Creditors of his Father who did not appear to the House to be satisfied for their Debts." That he admits there were Creditors of his Father who were not, and have not been satisfied their Debts, and in particular the Estate of Mr. Philip Hammond, to whom his Father mortgaged the Lots and Houses mentioned in the said Report. That he hath, and is entitled to an Equity of Redemption, and therefore praying the House to make him such Allowance for the Damage done the Premises aforesaid, as they may judge adequate to the same; and that such Allowance may be appropriated toward Satisfaction of the Debt due on said Mortgage, intended to be redeemed. Which was read, and ordered to lie on the Table.

On Motion, ORDERED, That Leave be given to bring in a Bill to revive and continue an Act, entitled, *An Act for amending and repairing the Publick Roads in Baltimore County*; and that Mr. Moale, Mr. Rumsey, Mr. Chase, Mr. Deye, and Mr. Risteau, do prepare and bring in the same.

Mr. Moale brings in and delivers to Mr. Speaker the said Bill.

Which was read the First and Second Time, by an especial Order, passed, and sent to the Upper House by Mr. Dye and Mr. Moale.

William Fitzhugh, Esq; from the Upper House, delivers to Mr. Speaker, the said Bill; thus endorsed: "By the Upper House of Assembly, November 7th, 1771: Read the First and Second Time, by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which Bill was read here and passed for engrossing.

Mr. Grabame, from the Conference, delivers to Mr. Speaker the following Papers, which were delivered by the Conferrees of the Upper House to those of the Lower House.

WHAT passed the last Session not having been productive of any Regulation, can't, we presume, be binding on both Houses at this Time; for, if considered as mutually obligatory, the Conference must inevitably prove fruitless. We were willing the last Session, that the Alternative should be extended, as well to the Clergy as the Officers and Lawyers; and had the Bill then depending happily passed both Houses, according to our Propositions, the Difficulty, in Respect of the Clergy, would probably not have happened. Our Measures must be adapted to our Circumstances; where we have no Power to controul these, the Consent of the Two Houses can't but be ineffectual, when it meets with a Dissent from the other Branch of the Legislature. We have already, in general, informed you, we had received an Assurance, that if the Alternative should be extended to the Clergy, the Bill will finally miscarry; and now, for your particular Information, deliver to you a Copy of the Governor's Message of the First Instant. Unless this Difficulty can be surmounted, a Consideration of other Points would be



be attended with an unprofitable Expence of Time. As you have rejected our First Proposition relative to the Clergy, permit us to remark, that if you should not incline to extend to them all the Provisions of the late Act, under which the Planter would be entitled to pay 30 *per* Poll in Tobacco, and the Farmer, and others, not making Tobacco, 30 *per* Poll in Money, at the Rate of Twelve Shillings and Six-pence common Money *per* Hundred Weight, your Adoption of the other Mode, *viz.* that of leaving the Clergy altogether out of the Bill, as far as the Planter may be concerned, and including them as far as the Farmers and others may be affected, will not alter the Condition the Planter would be in should the Bill not pass, and may secure the Farmer and others from the Oppression they may in some Instances suffer, if left to make a Composition in Money.

If this Difficulty, arising from the Claims of the Clergy, can be removed, we shall be willing to proceed on the other Matters; and in Regard to the Fees of the Officers, we must inform you, that it is our unalterable Resolution, not to admit of any further Reduction than that very considerable One, which must necessarily result from the Election to be given to all Persons to pay in Money or Tobacco, and that so far we do, and shall absolutely adhere to the old Regulation; but if any Abuses have really happened in the Charges under the old Table, and an Explanation or Correction should appear to be necessary, for the Prevention of such Abuses in future, we are willing that the old Table shall be explained and corrected with this View; and as you have declared it to be your Intention to explain and correct the old Table, we can't but think that the Subject to be considered, must properly be the old Table, for the very Purpose of discovering and determining wherein it is defective, and what Explanation or Correction may be requisite.

## C O P Y.

*Gentlemen of the Upper House of Assembly,*

UNDERSTANDING that a Conference is to take Place between the Two Houses on the depending Inspection Bill, and recollecting what passed at the last Session in Respect of the Clergy's Dues, I think myself obliged to inform you, that if a similar Regulation to what was then proposed should be established, many Ministers, who now have but a scanty Provision, would be reduced to a State of much Indigence and Distress, and that it will not be in my Power to assent to such a Regulation.

I do not know whether this Intimation may be consistent with the usual Manner of Proceeding or not, but I hope you will think it agreeable to the Character of Candour, and justified by the Occasion.

ROB. EDEN.

1st Nov. 1771.

*To the honourable the Upper House of Assembly.*

Which were read

Mr. Ennalls brings in, and delivers to Mr. Speaker, a Bill, entitled, A Supplementary Act to the Act, entitled, *An Act to enable the Justices of Dorchester County Court to assess and levy, on the taxable Inhabitants of the said County, a Quantity of Tobacco, for the Purpose of building a new Court-House*: Which was read the First and Second Time, by an especial Order, passed, and sent to the Upper House by Mr. Ennalls and Mr. W. Richardson.

William Hayward, Esq; from Upper House, delivers to Mr. Speaker the said Bill thus endorsed: "By the Upper House of Assembly, November 7th, 1771: Read the First and Second Time, by an especial Order, and will pass."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

Which Bill was read here and passed for engrossing.

George Steuart, Esq; from the Upper House, delivers to Mr. Speaker the Bill, entitled, *An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen*; thus endorsed: "By the Upper House of Assembly, November 6th, 1771: Read the First Time and ordered to lie on the Table."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, November 7th, 1771: Read the Second Time and will pass with the following Amendment, *viz.*

Leave out from the Word "afore said" in the First Line of the 21st Page, to the Word "House" in the Fourth Line of the same Page.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

Which Endorsement was read, and the proposed Amendment was unanimously rejected.

The Bill, entitled, *An Act to divide Prince-George's Parish, in Frederick County, and to erect One new Parish, by the Name of Christ Church Parish*; thus endorsed: "By the Upper House of Assembly, November 6th, 1771: Read the First Time and ordered to lie on the Table."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, November 7th, 1771: Read the Second Time and will pass."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

Which was read here and passed for engrossing.

And, the Bill, entitled, *An Act to enable the Commissioners for emitting Bills of Credit to pay to John Duckett, William Mills, John Peacock, and Anne Gaither, the Sums of Money therein mentioned*; thus endorsed: "By the Upper House of Assembly, November 4th, 1771: Read the First Time and ordered to lie on the Table."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, November 7th, 1771: Read the Second Time and will pass with the Amendment annexed."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"Leave



"Leave out all that relates to the Payment of One Hundred and Thirty-six Dollars to Mr. John Duckett, and let an Allowance be made to him in the Journal of Accounts, in the same Manner as Allowances have been usually made to others for similar Services:" Which Endorsement was read, and the proposed Amendment was read and rejected.

On Motion, ORDERED, That Leave be given to bring in a Bill to continue the Act, entitled, *An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen*; and that Mr. Chase, Mr. Johnson, and Mr. Hall, do prepare and bring in the same.

Mr. Worthington hath Leave of Absence for a few Days.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## F R I D A Y, November 8th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

The Bill, entitled, *An Act for the Relief of certain Prisoners in the several Jails therein mentioned*, read a Second Time, passed, and sent to the Upper House, with the engrossed Bills, N<sup>o</sup>. 13, 14, 15, by Mr. Wootton and Mr. Ristean.

John Ridout, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act to prevent the Exportation of Flour, Staves and Shingles, not merchantable, from the Town of Baltimore, or Fell's-Point, in Baltimore County, and to regulate the Weight of Hay and Measure of Grain, Salt, Flax-seed and Fire-wood within the said Town*; thus endorsed: "By the Upper House of Assembly, November 1st, 1771: Read the First Time and ordered to lie on the Table.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, November 8th, 1771: Read the Second Time and will pass with the Amendments annexed.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

In the 10th Line of the 2d Page, instead of the Words "any Number of Persons not exceeding Three," insert the Words "a Person." Instead of the Word "Inspectors" in the 11th Line of the same Page, insert the Words "an Inspector." After the Word "Town" in the 12th Line of same Page, insert the Words "and at Fell's-Point." Leave out from the Word "Discretion" in the 12th Line of the Second Page, to the Word "Discretion" inclusive, in the 14th Line of the same Page. After the Word "Town" in the 7th Line from the Bottom of the 2d Page, insert the Words "and at Fell's-Point." After the Word "Town" in the 4th Line from the Bottom of same Page, insert "and at Fell's-Point." Instead of the Word "Inspectors" in the 5th Line of the 3d Page, insert "Inspector." Instead of the Word "or" after the Word "Baltimore" in the same Line, insert the Word "and," and leave out the Words "as the Case may be." After the Word "Baltimore" in the 7th Line of 3d Page, insert "and Fell's-Point." Instead of the Words "any one of the Inspectors" in the second Line of the 6th Page, insert the Words "the Inspector." In the 4th Line from the Bottom of the 7th Page, leave out the Words "Inspectors aforesaid or any of them," and insert the Word "Inspector." In the 3d Line from the Bottom of the 9th Page, leave out the Words "Three Persons and each of them," and insert the Words "Inspector of Flour;" and in the same Line, instead of the Word "their" insert the Word "his." Instead of the Word "them" in the Second Line from the Bottom of the same Page, insert the Word "him." After the Word "Baltimore" in the 6th Line of the 10th Page, insert "or Fell's-Point." After the Word "Town" in the 9th Line of 12th Page, insert "or Fell's-Point." In the 4th Line of the 20th Page, instead of the Word "Inspectors," insert the Word "Inspector." In the 10th Line of the 21st Page, instead of the Words "any of the said Inspectors," insert the Words "the Inspector." After the Word "and" in 11th Line of same Page, insert "is," instead of "are." After the Word "Refusal" in the 14th Line of the 21st Page, insert the following Clause, viz. "And whereas it may sometimes happen, that by Reason of a great Quantity of Flour being brought at once to Baltimore-Town and Fell's-Point, the Person who shall be appointed Inspector of Flour, cannot alone with sufficient Dispatch inspect and brand all such Flour; and as it is apprehended that the most likely Means to support the Credit of the Inspection Brand, is to make one Inspector answerable, Be it enacted, That the Person to be by the Commissioners chosen and appointed Inspector of Flour, shall or may, on such Occasions only, or in Case of Sickness, employ one or more Persons of good Repute, and well qualified for such Services, as Assistants, to assist him in the Execution of his said Office; and such Assistants, after taking the Oaths or Affirmations herein prescribed to be taken by the Inspector of Flour, are hereby authorised to inspect, to brand any Barrels of Flour at Baltimore-Town or Fell's-Point, as the Inspector himself might do." After the Word "Oaths" in the 16th Line of the 21st Page, insert the Words "or Affirmations." Which Endorsement was read; and the Amendments proposed were read and agreed to, and the Bill passed for engrossing.

Mr. Wootton brings in and delivers to Mr. Speaker, a Bill, entitled, *An additional Supplementary Act, to the Act, entitled, An Act for the Relief of the Poor within the several Counties therein mentioned*; which was read the First and Second Time by an especial Order, passed, and sent to the Upper House with the engrossed Bill No. 16, by Mr. Beatty and Mr. Wootton.

Mr.



Mr. Chase brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act continuing an Act, entitled, An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen*; which was read the First and Second Time by an especial Order, and will pass.

On reading a Second Time the Bill, entitled, *An Act for a further Emission of Bills of Credit*, the Question was put, that the following Question, viz. That the Parts of the Bill relative to a College be struck out of the Bill, be now put? Resolved in the Negative.

For the N E G A T I V E.

Messieurs {	Reeder,	Chase,	Weems,	Baxter,	Hall,
	W. Thomas,	Hammond,	Smallwood,	Rumsey,	Paca,
	Jordan,	Mackall,	Harrison,	Tyler,	T. Wright,
	Worthington,	Grahame,	Moale,	Contee,	Earle,
	Johnson,	Parran,	Veazy,	Sim,	Beatty.

For the A F F I R M A T I V E.

Messieurs {	Buchanan,	J. Richardson,	Deye,	Chamberlaine,	Allen,
	Handy,	W. Richardson,	Ward,	So. Wright,	Robins,
	Dennis,	Ennalls,	Tilghman,	Chaille,	Lockett.
	Gale,	Risteau,	N. Thomas,	Holland,	Wootton.
	Adams,				

The Bill was then read throughout, and the Question was put, That the said Bill do pass? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messieurs {	Reeder,	Hammond,	Smallwood,	Rumsey,	Deye,
	W. Thomas,	Mackall,	Harrison,	Tyler,	Hall,
	Jordan,	Grahame,	Moale,	Contee,	Paca,
	Worthington,	Parran,	Veazy,	Sim,	T. Wright,
	Johnson,	Weems,	Baxter,	Risteau,	Beatty.

For the N E G A T I V E.

Messieurs {	Buchanan,	Adams,	Ward,	S. Wright,	Allen,
	Handy,	J. Richardson,	Tilghman,	Earle,	Robins,
	Dennis,	W. Richardson,	N. Thomas,	Chaille,	Lockett,
	Gale,	Ennalls.	Chamberlaine,	Holland,	Wootton.

Mr. Rumsey, Mr. Veazy, and Mr. Reeder, have Leave of Absence.

The House adjourns till To-morrow Morning 9 o'Clock.

S A T U R D A Y, November 9th, 1771.

THE House met. All Members present as on Yesterday, except Mr. Rumsey, Mr. Sim, and Mr. Reeder. The Proceedings of Yesterday were read.

Mr. Contee, Mr. W. Thomas, Mr. Allen, Mr. Robins, Mr. Dennis, and Mr. Chaille have Leave of Absence. Mr. Buchanan hath Leave of Absence till Monday next.

The Petition of Alexander Cumming was read a Second Time: ORDERED, That the said Petition be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them to the House; and Mr. Grahame, Mr. Hammond, Mr. Mackall, and Mr. Harrison, are appointed a Committee accordingly; and they have Power to send for Persons, Papers and Records.

Daniel of Saint Thomas Jenifer, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bills No. 13, 14, 15, 16; severally endorsed: "By the Upper House of Assembly, November 8, 1771: The engrossed Bill, whereof this is the Original, read and assented to.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

And, a Bill, entitled, *An additional Supplementary Act, to the Act, entitled, An Act for the Relief of the Poor within the several Counties therein mentioned*; thus endorsed: "By the Upper House of Assembly, November 8, 1771: Read the First and Second Time by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which last mentioned Bill was read here, and passed for engrossing.

The Bill, entitled, *An Act for a further Emission of Bills of Credit*, and the Bill, entitled, *A Supplementary Act, to the Act, entitled, An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen*, were sent to the Upper House by Mr. Chase and Mr. Grahame.

Mr. Mackall brings in and delivers to Mr. Speaker, a Bill, entitled, *An additional Supplementary Act, to the Act, entitled, An Act for the Establishment of religious Worship in this Province according to the Church of England, and for the Maintenance of Ministers*: Which was read the First Time, and ordered to lie on the Table.

Mr.



# 44 VOTES AND PROCEEDINGS, OCTOBER 1771.

Mr. Wootton brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act for the Security of Purchasers and others, being Protestants, claiming by or from Aliens*: Which was read the First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. Wootton and Mr. Beatty.

The engrossed Bill No. 17, read and assented to, and sent to the Upper House, with the Paper Bill thereof, by Mr. Ennalls and Mr. J. Richardson.

On Motion, ORDERED, That leave be given to bring in a Bill to enable the Commissioners for emitting Bills of Credit, to pay to William Mills, John Peacock, Anne Gaither, and Peter Payne, Executor of Ralph Price, the Sums of Money therein mentioned; and that Mr. Paca, and Mr. Tilghman, do prepare and bring in the same.

John Beale Bordley, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act, continuing an Act, entitled, An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and Petty Chapmen*; thus endorsed: "By the Upper House of Assembly, Nov. 9, 1771: Read the First and Second Time by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here and passed for engrossing.

And, a Bill, entitled, *An Act for the further Emission of Bills of Credit*; thus endorsed: "By the Upper House of Assembly, Nov. 9, 1771: Read the First and Second Time by an especial Order, and will pass with the following Amendment, viz. Leave out what follows the Word "Interest" in the 4th Line of the 29th Page, to the Word "direct" inclusive, in the Third Line from the Bottom of the same Page.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read, and ordered to be considered on Tuesday Morning next.

A Bill, entitled, *An Act to empower Frank Leeke and George Digges, Administrators of Charles Digges, late of Prince George's County, deceased, with the last Will of the same Charles to their Letters of Administration annexed, to sell a Lot of Ground of the same Charles, situate and being in the Town of Upper Marlbro', in Prince George's County aforesaid, for the Payment of the Debts of the said Charles Digges*, was read a First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. Mackall and Mr. Contee,

William Hayward, Esq; from the Upper House, delivers to Mr. Speaker the said Bill; thus endorsed: "By the Upper House of Assembly, Nov. 9, 1771: Read the First and Second Time by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here, and passed for engrossing.

Daniel Dulany, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bill, No. 17; thus endorsed: "By the Upper House of Assembly, November 9th, 1771: The engrossed Bill, whereof this is the Original, read and assented to.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

And the Bill, entitled, *An Act for the Security of Purchasers and others, being Protestants, claiming by or from Aliens*; thus endorsed: "By the Upper House of Assembly, November 9th, 1771: Read the First and Second Time, by an especial Order, and will pass with the following Amendment, viz. After the Word "Persons" in the 9th Line of the 1st Page, strike out the Words "being Protestants."

Signed by Order,

U. SCOTT, Cl. Lo. Ho."

On Motion, ORDERED, That Leave be given to bring in a Bill to regulate the criminal Business of Baltimore County; and that Mr. Chase, Mr. So. Wright, and Mr. Deye, do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Supplementary Bill to the Act, entitled, *An Act for the more effectually securing of Orphans Estates*; and that Mr. So. Wright, Mr. N. Thomas, Mr. Paca, and Mr. Deye, do prepare and bring in the same.

On Motion, ORDERED, That Leave be given to bring in a Supplementary Bill to the Act, entitled, *An Act for the Punishment of Fornication and Adultery, and for repealing Part of the said Act*; and that Mr. Wootton, Mr. Lockett, Mr. Mackall, Mr. N. Thomas, Mr. Baxter, and Mr. Smallwood, do prepare and bring in the same.

Mr. So. Wright brings in, and delivers to Mr. Speaker the following Report:

By the COMMITTEE appointed to inspect into the State of the several publick Offices, 9th November 1771.

YOUR Committee have examined into the State of the several publick Offices, and find, that the Records of the Land-Office are now deposited in the Eastermost End of the Council Chamber; the Records of the Secretary's Office in the Westermost End of the said Chamber, which Offices are separated by a secure Partition; and that the Records of the Commissary's Office are deposited in the Conference Chamber, and that they all appear safe, and properly arranged on Shelves fitted up for that Purpose: That the Records of the Land-Office are in the same Condition as they were at the Time of the last Report of your Committee, except that the general Patent Alphabet, which was in a torn and defaced Condition, is now transcribing into a large well bound Folio Book, and that the said Alphabet is transcribed from the Year 1680 to 1708: That the Certificates and Patents appear to be recorded up to the present Year, and that they are examined: That the Records of the Commissary's Office appear in the same Condition they were in at the Time of the last Report of your Committee, except that the general Alphabet of Wills (which extended only to the Year 1726, and was much torn and defaced) is newly bound; the Leaves thereof well repaired, and the Alphabet therein continued to the Year 1760: That



ROBERT EDEN, Esq; GOVERNOR. 43

That the Books (since the last Report to this Time, a List of which is hereto annexed) are in good Order, with Alphabets cut in the Leaves of each Book, and the several Papers recorded therein appear to be examined up to the present Time: That a large Bundle of Inventories and Accounts, for the Year 1764, when *Stephen Bordley*, Esq; was Commissary-General, remain unrecorded, and that no Entry hath been made in the Books of Testamentary Proceedings, of any Transactions in that Office, from the Month of *June* 1764 to the End of that Year: That the Records of the Secretary's Office appear in the same Condition they were in at the Time of the last Report of your Committee: That the Judgments are entered up to *October* Term 1766, with a great Part of the Proceedings of that Term: That the Land Records, and also the Laws, are recorded up to the present Time.

A LIST of the RECORD BOOKS in the several Offices, since *October* 4th, 1770, the Time of the last Report.

In the LAND OFFICE

Liber B C & G S, N<sup>o</sup>. 42. } Containing Patents.  
 43. }  
 Liber W S, 16. Containing Warrants and Assignments.  
 General Alphabet not yet completed for Patents.

In the COMMISSARY'S OFFICE

Liber D D, N<sup>o</sup>. 1. Containing Wills, 1759, 1760.  
 W D, 2½ Containing Accounts, 1759, 1760.  
 9 & 10. Containing Accounts.  
 13, 14, 15, 16. Containing Inventories.  
 E N, 4. Containing Testamentary Proceedings.

In the SECRETARY'S OFFICE

Liber D D, N<sup>o</sup>. 11. Containing Judgments.

All which is submitted to the Consideration of the honourable House.

Signed by Order,

JOHN C. JONES, Cl. Com.

Which was read the First Time and ordered to lie on the Table.

The House adjourns till Monday Morning 9 o'Clock.

MONDAY, November 11th, 1771.

THE House met. All Members appeared as on Saturday, except Mr. *Buchanan*, Mr. *Gresham*, Mr. *Moale*, Mr. *Weems*, Mr. *Dennis*, Mr. *Allen*, Mr. *Robins*, Mr. *Chaille*, Mr. *Contee*, and Mr. *Chamberlaine*. The Proceedings of Saturday were read.

Mr. *Johnson*, One of the Conferrees of this House, delivers to Mr. Speaker the following Paper.

FROM an Expectation, that if the most material Points could be settled, there would be little Difficulty in Matters of less Importance, we declined reasoning on some of your Propositions, tho' we are persuaded we could evince the Propriety of such Parts of the Bill as are therein objected to.

In the present Bill the Lower House have adopted the Provision for the Clergy proposed last Session by the Upper House. No Argument can be necessary to evince to the Upper House the Propriety and Justice of their own Proposition. Your Honours are now pleased to object to this Part of the Bill, and have observed, that "what past the last Session not having been productive of any Regulation, can't, you presume, be binding on both Houses at this Time." Permit us therefore to remark, that tho' upon the Concurrence of both Houses only, neither of them are legally bound; yet, in Point of Consistency, essential to the Dignity of Legislation, a Departure from a Proposition solemnly made, and deliberately acceded to, cannot be justified, whilst the Principle remains upon which the Proposition was founded. You have not even intimated that you have changed your Opinion of the Propriety and Justice of your own Proposition, nor have assigned any other Cause for departing from what you proposed, than the Assurance you have had by Message, that his Excellency will not pass the Law with the Alternative extended to the Clergy. The Lower House of Assembly profess themselves totally unacquainted with the Connexion between the Governor, as one Branch of the Legislature, and your honourable House, and therefore we cannot express ourselves on the Propriety of this Assurance to you by Message; and as we cannot see that the long Prorogation has disclosed any Thing which ought to lessen the Probability of the final Passage of the Bill now, more than at the last Session on Account of the Clergy, we should still hope, that if all other Matters were settled between the Two Houses, his Excellency would, on a more mature Consideration of the Point respecting the Clergy, entertain the same idea the Two Houses do, as to the Justice and Fitness of the Alternative being extended to their Dues.

There is, doubtless, by much, too great an Inequality in the Livings of the Clergy; however none of the Parishes are so inconsiderable but that the worst is too good for the worst Clergyman, and the frequent Opportunities his Excellency has of removing those who may have indifferent Parishes into much better, put it amply in his Power to reward Merit where he may meet with it; and if by a Probationary State in the small Livings, that Merit is not proved,

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the Punishment will be light enough never to remove those who may be wanting in it. The Lower House intend the same Measure of Justice to the Clergy as to every Body else, nor will they afford an Argument of one Example, that any Body of Men in the Community are above any Regulation that the Legislature may think just and reasonable.

Your Honours are pleased to postpone Officers Fees to all other Points in Dispute between us; we think that Subject ought to have been the first considered: A Course of more than Twenty Years Experience has sufficiently convinced us, that the old Table, which has been already altered in some Things, is still full of Errors and Imperfections. All Parties in the Year 1747, we take it for granted were heartily tired with the Controversy about Fees that had been then subsisting many Years, and were no Doubt glad to put an End to the Dispute, by coming into some Regulation, however imperfect. No Principle can be more evident than that Officers ought not to charge Fees where no Service is done; and your Honours, upon considering the old Table, and the Practice under it, will find frequent Occasions to apply this Principle by Way of Correction. Your Declaration, that it is your unalterable Resolution not to admit of any further Reduction, than that very considerable one which must necessarily result from the Election to be given to all Persons to pay in Money or Tobacco, and that so far you do and shall absolutely adhere to the old Regulation, leaves us little Room to hope for an Agreement; but you are pleased to say further, that if any Abuses have really happened in the Charges under the old Table, and an Explanation or Correction should appear to be necessary for the Prevention of such Abuses in future, you are willing that the old Table shall be explained and corrected with this View: Permit us then to enumerate some of the Abuses which we apprehend have happened in the Charges of the Officers under the old Regulation; they are, the Charging Fees by the Commissary-General for Services done by the Deputies, and for which they are paid; the Charge for recording Papers by the Secretary and County Clerks, in Actions discontinued, abated, struck off or agreed, when they need not, nor generally have been recorded; the extravagant Charges of the Surveyor and Examiner-General on Resurveys, and of the Surveyor on Warrants of Survey out of the Provincial Court; the additional Charge of Order in the Commissary's Office to almost every Act done therein, when the old Table makes the Allowance only for Orders in Testamentary Causes. For the Prevention of these Abuses principally was the new Table framed, and to correct the Allowances in some Instances where they were beyond all Moderation; therefore, as the subject Matter of the Bill, in which is included the Regulation of Fees, is the real Object of this Conference, the new Table most certainly is the proper Subject now to be considered, in Order to discover how far it has provided against the Abuses that have crept in under the old. There is a great Difference, we apprehend, between the Amount of Fees properly chargeable under the old Table, and the Amount of Fees charged according to the Practice of charging.

If, when you say that you will not admit of any further Reduction than what must necessarily result from the Election to be given to all Persons to pay in Money or Tobacco, your Honours mean a Reduction only of the Amount of Fees as properly chargeable according to the old Table: If you esteem the several Charges above enumerated to be erroneous, and are willing to make Provision against the Continuance of such Charges in future, some Fruit might still be expected from this Conference, as we make no Doubt of being able to shew to your Satisfaction, that in these, as well as many other Particulars, great Abuses have been committed; in this Case we are willing to confer upon both the Tables, in Order to strike out one more perfect, which we are persuaded might be effected to the Satisfaction of both Houses, as we can with Truth assure you, we are not desirous of reducing the Incomes of the Officers beneath what might be worth the Acceptance of Gentlemen of the First Distinction. If, on the contrary, you are of Opinion, that the Mode of charging Fees, as used and practised in the above enumerated Particulars, is agreeable to the old Regulation, and do not mean to admit of such a Reduction of the Amount of Fees as would be occasioned by an Alteration and Correction of that Mode of charging, nothing further can be expected to be done, and we shall desire an immediate End may be put to the Conference.

The Order of the Day being read, the Consideration of the Petition of *Gilbert Barrow* is further referred till To-morrow Morning.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## T U E S D A Y, November 12th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

Mr. Moale, Mr. Owings, Mr. Buchanan, Mr. Gresham, and Mr. Beall, appeared in the House.

Mr. Holland hath Leave of Absence.

Mr. Hall and Mr. Worthington have Leave of Absence for a few Hours.

The Order of the Day being read, the House took into Consideration the Petition of *Gilbert Barrow*, and after having heard the Evidences relative to the several Matters set forth in the said Petition, and having maturely considered the same: ORDERED, That the said Petition be rejected.

ORDERED, That *Gilbert Barrow* pay the Fees to the several Officers of this House arising due on the said Petition.

ORDERED,



ORDERED, That Mr. Beall and Mr. Tilghman do tax the Fees arising due on the said Petition. Mr. Beall brings in, and delivers to Mr. Speaker the following Report :

By the COMMITTEE appointed to tax the Fees and Allowances arising due to the Officers of this House, and Evidences attending the Petition of Gilbert Barrow.

YOUR Committee have proceeded to tax the Fees and Allowances on the above Petition as follows.

To the Clerk for Copy of Petition and Order,	-	£. 0 6 6
To ditto for issuing Two Subpoenas, at 3 s.	-	0 6 0
To the Serjeant for serving the same,	-	0 6 0
To John Loveday and Richard Johns, for Two Days Attendance, and Six Days itinerant Charges each, from Talbot County, at 5 s.	-	4 0 0
		<hr/> £. 4 18 6 <hr/>

All which is submitted to the Consideration of the Honourable House.

Signed per Order,

THOMAS B. HODGKIN, Cl. Com.

The House agrees with the Report.

Daniel of St. Thomas Jenifer, Esq; from the Upper House, delivers to Mr. Speaker the Bill, entitled, *An Act for the Relief of certain Prisoners in the several Jails therein mentioned*; thus endorsed : " By the Upper House of Assembly, November 8th, 1771 : Read the First Time and " ordered to lie on the Table.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

" By the Upper House of Assembly, November 9th, 1771 : Read the Second Time and will pass " with the Amendments annexed.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

After the Words "*Zachariah Wade*," in the 9th Line of the 1st Page, insert the Words "*James Steward*." After the Word "*aforsaid*" in the last Line of the 6th Page, add the following Clause, viz.

" And be it further enacted, by the Authority aforsaid, That if any of the Persons intended to be relieved by this Act are, and shall be of sufficient Ability of Body to labour, such Person or Persons, not having a Wife or Family, shall be, and are hereby obliged to serve for a Time not exceeding Five Years, to any Person or Persons, who are or shall be inclined to purchase the Time of Servitude of such Debtor or Debtors, and that the respective Sheriffs, in whose Custody the aforsaid Debtors or any of them are, be and are hereby authorized and obliged to summon Two Justices of the Peace, in the respective Counties, at the Request of the said Prisoners, as soon as conveniently may be after the End of this Session of Assembly, and after giving Five Days Notice at the Court-Houses of the respective Counties, of the intended Sale of such Debtor or Debtors, expose to Sale, in the Presence of the said Justices, such Debtor or Debtors, and the Time of his or their Servitude to the highest Bidder ; and the Money arising from such Sale shall be as Effects of such Debtor or Debtors, in the Hands of the respective Sheriffs, subject as aforsaid to a Distribution in Manner aforsaid ; and the Sale and Service of such Debtor or Debtors as aforsaid is hereby directed to be taken as a full and sufficient Acquittal and Discharge against all Debts due from such Debtor or Debtors before such Sale. Provided, that in Case it shall appear to the Satisfaction of the said Justices, that any of the said Debtors have offered, since their Confinement, to make Satisfaction to their Creditors by Servitude, and that their Creditors have refused to accept the same, that the Time such Debtors have been confined in Prison shall be deemed and taken as Part of the aforsaid Five Years, and that they shall be obliged to serve only for such Time as will compleat Five Years from the Day of such Offer of Servitude ; and that in Case any such single Persons as aforsaid have been confined in Prison for Five Years, or any longer Time, that the said Persons so confined shall be discharged upon the same Terms and in the same Manner that Persons having Families are by this Act directed to be discharged." Which was read, and the Amendments proposed were read and agreed to, and the Bill passed for engrossing.

And, a Petition of the Rector, Churchwardens, Vestrymen and others, Inhabitants of Saint John's (commonly called King George's) Parish, lying partly in Prince George's, and partly in Charles County, setting forth, That there are Repairs wanted to the Lower Chapel in the said Parish, and a Vestry-room to be built. That an Enlargement of the Upper Chapel hath likewise become necessary ; and therefore praying that an Act may pass, enabling the Justices of Prince George's and Charles Counties, to levy on the taxable Inhabitants of that Parish, the Sum of Three Hundred and Fifty Pounds common Money, for the Purposes aforsaid.

Mr. Tilghman brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act to enable the Commissioners for emitting Bills of Credit, to pay to William Mills, John Peacock, Peter Payne, Executor of Ralph Price, and Anne Gaither, the Sums of Money therein mentioned* : Which was read the First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. N. Thomas and Mr. Moale.

The Order of the Day being read, the House took into Consideration the Petition of the Inhabitants of Baltimore County, the Petition of the Inhabitants of York County, and the Petition of Nathaniel Giles.

On the Prayer of the Petitioners they have Leave to be heard at the Bar by their Counsel.— The House having spent some Time therein, referred the further Consideration thereof till Tomorrow Morning.

Benedict



48 VOTES AND PROCEEDINGS, OCTOBER 1771.

*Benedict Calvert*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act to enable the Commissioners for emitting Bills of Credit, to pay to William Mills, John Peacock, Peter Payne, Executor of Ralph Price, and Anne Gaither, the Sums of Money therein mentioned*; thus endorsed: "By the Upper House of Assembly, Nov. 12, 1771: Read the First and Second Time by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here and passed for engrossing.

*John Beale Bordley*, Esq; from the Upper House, delivers to Mr. Speaker, a Bill, entitled, *An Act for the Naturalization of Charles Frederick Weisenthall*; thus endorsed: "By the Upper House of Assembly, Nov. 12, 1771: Read the First and Second Time by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

The Order of the Day for taking into Consideration the Amendment proposed by the Upper House to the Bill, entitled, *An Act for a further Emission of Bills of Credit*, being read, it is further referred till To-morrow Morning.

The House adjourns till To-morrow Morning 9 o'Clock.

W E D N E S D A Y, November 13th, 1771.

THE House met. All Members present as on Yesterday, except Mr. Chase.

The Proceedings of Yesterday were read.

The Order of the Day for taking into Consideration the Amendment proposed by the Upper House to the Bill, entitled, *An Act for a further Emission of Bills of Credit*, being read, the House rejected the Amendment.

On Motion, the Question was put, That the said Bill be enforced by a Message to the Upper House? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messrs	{	Jordan,	Mackall,	Harrison,	Owings,	Hall,
		Worthington,	Grahame,	Moale,	Baxter,	Paca,
		Johnson,	Parran,	Risteau,	Tyler,	T. Wright,
		Hammond,	Smallwood,	Deye,	Beall,	Beatty.

For the N E G A T I V E.

Mess.	{	Gresham,	Gale,	W. Richardson,	Tilghman,	Earle,
		Buchanan,	Adams,	Ennalls,	N. Thomas,	Luckett,
		Handy,	J. Richardson,	Ward,	So. Wright,	Wootton.

ORDERED, That Mr. Johnson, Mr. Hall, Mr. Tilghman, Mr. Paca, and Mr. Beall, do prepare and bring in the said Message.

Mr. Grahame from the Conference, delivers to Mr. Speaker the following Paper, which was delivered by the Conferrees of the Upper House to those of the Lower House.

THE Alternative, in Respect of the Clergy's Dues, originally sprang from your House, the Addition of Two to the Thirty *per Poll*, in Case of Money Payments, from our. If the Ideas of Propriety and Dignity, ought to preclude the Revision, and hinder the Modification or Rejection of a mere Proposition, how are they to be excused who have rescinded Regulations to which they had recently given the most solemn Sanction? The late Inspection Act passed after mature Consideration. It had been continued with a full Experience of its Effects, for more than Twenty Years, by Five successive Acts of the Legislature, and yet it ought not to be said; that they who suffered it to fall, after they had continued it, forgot Propriety, and were regardless of Dignity. We have now a Ground of Objection to what respects the Clergy, which did not exist the last Session, and have no Scruple in avowing it.

The last Session we had no particular Reason to apprehend, that what the Two Houses might concert would finally fail; but now have the utmost Persuasion that the Governor will dissent to the Bill, if the Alternative proposed by it be extended without Limitation to the Clergy. We have already communicated his Excellency's Declaration on this Head, in as full a Manner as we received it. It is clear and precise. He is not to be controuled by you, or us in the Exercise of his Judgment. His Right to form it is indubitable. It becomes him to act upon it. Without his concurrence our Meetings and Results on the Subject must be fruitless. Whilst we aim to conciliate our own Sentiments, it should seem that his ought not to be neglected. The immediate Intercourse between the Two Houses gives the Members of each an immediate Opportunity of communicating to the other their Opinion upon any proposed Measure. Whilst a Bill is depending, we know not in what more proper Method than by Message, the Governor can impart his Sentiments, or to whom he can direct it, with so much Propriety, as to those with whom the Bill is lodged. We presume he deliberated before he resolved, and think ourselves obliged to him for his frank and candid Communication, which has put us upon our Guard against Disappointment, and shall always be ready to admit the Propriety of a Notification, calculated to prevent the mispending of Time and publick Money, and pointing out what we



we should avoid, when endeavouring to obtain a most beneficial Law. If it could be shewn that any useful Purpose may be attained by our agreeing to a Bill to be presented for Rejection, we should cheerfully adopt the Alternative in its fullest Extent. We can't at once conclude, that any who happen to dissent from our Sentiments, do so incautiously, and must adopt our Ideas on more mature Deliberation. It is well known there are several small Parishes, wherein the Ministers have been paid principally in Tobacco, and it can't be doubted but that their Revenues would be very much diminished under the Alternative proposed by the Bill. They had little Reason, when inducted, to expect this so great Diminution. Ministers have been removed with a View to their Promotion, from Parishes of a greater Number of Taxables not making Tobacco, to Parishes of a lesser Number making Tobacco, and we can't assert that there would be no Appearance of Hardship brought upon such Ministers, or that they would have no Reason to complain of any Breach of implicit Confidence. It is true that "no Parishes are so inconsiderable, but that the worst may be too good for the worst Minister," but the Disappointment and Hardship suggested might fall upon Men of real Merit.

The Right of Appointment is in the Governor. He is not confined in the Exercise of it to those now in the Province, nor does a Restriction of his Power, in Order to rescue Merit from Distress, appear to be reasonable, when a Modification of the Alternative may prevent such Distress. We earnestly wish some Expedient could be fallen upon to remove this Difficulty, and therefore take the Liberty to add to what we have already offered on this Subject, that we are willing the Regulation of the late Inspection Law may be continued in Respect of the Clergy, with a Proviso, that in all the Parishes, on the Death or Removal of the present Incumbents, the Alternative shall take Place. In the Course of a few Years, what is designed will be accomplished. If the Regulation be deferred, the Prospect of a general uniform Establishment will be more remote.

We are equally averse with you from allowing, that any Body of Men in the Community are above the Law; but all Bodies of Men, every Individual liable to be personally affected by a Bill, may, we apprehend, whilst it is depending, petition against its Passage, without the Imputation of Arrogance.

As you have assigned no Reason, neither does any occur to us, why the Officers Fees should be first considered. For above a Century, Officers Fees had been rated, and the Subject therefore could not be new in the Year 1747, and there appears to us no Ground for supposing, that the Legislature did not then well understand it, and the Existence of the Inspection Act for above Twenty Years, under Five continuing Acts, especially as the old Table has, as you observe, been altered in some Things, seems to afford a strong Proof, that the Opinion of the Legislature has long been, that the old Table, as it stood when the Inspection Law fell, was well adapted to the Purposes of it. What we meant by the Expressions, "it is our unalterable Resolution not to admit of any further Reduction than that very considerable one which must necessarily result from the Election to be given to all Persons to pay in Money or Tobacco, and that so far we do and shall absolutely adhere to the old Regulation," was, that we would not agree to any Reduction of Fees properly chargeable according to the old Table, tho' willing that the improper Charges of Fees under the old Table should be prevented in future by new Descriptions. In your Enumeration of the Abuses committed by Officers, the Charge of the Commissary-General, when the Services are performed by his Deputies, and they are paid, is mentioned. By the Term *Abuse*, we apprehend is meant, the taking of Fees by the Commissary-General not warranted by Law. The Question then will be, whether the double Charge, as it is called, was supported by the late Inspection Act or not.

Deputies were introduced by the Act of 1715. They were instituted for the Ease and Convenience of the People, to give them an Option of doing their Business at Home or at Annapolis, but with no apparent View of diminishing the Fees of the Commissary-General. After defining their Duties, the Act limits the Pauper Estates to £. 10. directs that the Deputy shall take no more than 50<sup>lb</sup> of Tobacco for Letters on such Estates, and provides, that in every such Case, the Commissary-General shall have no Fees. The Prohibition being thus confined to Pauper, proves that it was not intended to comprehend other Estates. The late Inspection Act makes a similar Provision in Respect of Pauper Estates only. Cotemporary Usage corresponded with this Idea. As far back as the Mode of charging can be traced, the Commissaries-General have invariably charged the Fees in Question. You observe that there has been "the additional Charge of Order in this Office for almost every Act done, when the old Table makes the Allowance only for Orders in Testamentary Causes," but this is a Mistake, for in the old Table these Articles occur, viz. Entering every Motion in Court and Order thereon—For transmitting Balance and Order—For transmitting Sureties Names and Order—For transmitting Distribution and Order.—In the Year 1753 the Lower House attempted by a Bill to strip the Commissary-General of his Fees when Services were performed by the Deputies; but the Upper House amended it in this very Respect, and the Lower concurred, so that in the Year 1753 it was the Sense and Expectation of the Legislature, that these Fees might, and would be charged. And for your further Satisfaction on this Point we have made the following Extract, viz. "November 12, 1753. Amendments proposed by the Upper House to the Bill, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees.* In the 17th Line of the First Page, between the Words "Mate" and "Boatswain," put "or" instead of "and." In the 13th Line of the 13th Page, and the 2d Line of the 14th Page, make the Sheriffs Salary "Six" instead of "Five." In the Secretary's Fees; making up the Issue, when done by the Clerk, Leave out "when done by the Clerk." A *Venire facias* for Jurors, if issued by Order of the Court, leave out "if issued by Order of the Court." A Copy of the



Judgment, if demanded and delivered, leave out "*if demanded and delivered.*" Commissary-General's Fees; *every* Letter of Administration, or Letters Testamentary, if granted by the Commissary-General, leave out "*if granted by the Commissary-General.*" For *every* Bond, if taken by him, leave out "*if taken by him.*" *Every* Oath, if administered by him, leave out "*if administered by him.*" A Warrant to Appraisers, if granted by him, leave out "*if granted by him.*" A Warrant to swear them, if granted by him, leave out "*if granted by him.*" On reading the said Amendments proposed, the Question was put in the Lower House, which of the Two following Questions shall be first put, *viz.* Whether this House agrees to all the Amendments proposed by the Upper House to the said Bill, or not? Or, Whether several Questions shall be put upon the several Amendments proposed by the Upper House, or not? Resolved that the Question be put, Whether this House agrees to all the Amendments proposed by the Upper House to the said Bill, or not? The Question was put, and resolved in the Affirmative."

If however, in any Cases, Orders are improperly charged, let the old Table be corrected, so as to prevent such Charge in Future.

We presume that no Service was directed by the old Table, for which some Reward was not intended, especially when to the Description of the Service a Reward is expressly annexed; but if the Service be supposed to consist of distinct Parts, and a Reward be generally annexed, either this Sum must be due or Nothing; for there is no Rule of Apportionment.

*Ex. Gra.* The old Table gave the Secretary 7<sup>lb</sup> of Tobacco *per Side* for filing and recording every Declaration and other Pleadings. If the Term *Recording* necessarily means transcribing into a large Book, which we conceive it does not, either the 7<sup>lb</sup> of Tobacco are due for filing, or Nothing. If Nothing be due, then on Actions agreed, abated, or discontinued, however various and prolix the Pleadings, if the Proceedings have not been transcribed, the Officer was entitled to Nothing. In the new Table, the Return is added to almost every returnable Process. In the Case of *Audita Querela* 87<sup>lb</sup> of Tobacco are given. On the Principle above suggested, either the Reward of 87<sup>lb</sup> of Tobacco would be due for the Service of issuing the Process, or Nothing would be due for it without a Return, because there is no applicable Rule of Apportionment.

If however on a just Construction of the old Table, and on a proper Consideration of the general Allowance and Usage as far as the Matter may be traced, it should appear that the Secretary and County Clerks have charged for recording where they should not, the Instances in which the improper Charges have been made being ascertained, we are willing such may be guarded against in future by Corrections, or new Descriptions, and these too are our Sentiments in respect of the Examiner-General, and the Surveyors.

We have already declared why we think the old Table is primarily to be considered, and discover no Reason for altering our Opinion in what you have last said. So far as a Reduction may be intended, we shall not agree to the new Table. So far as Explanations or Corrections of the old may be proper, we are willing to examine the new Table, and to adopt such Parts of it as may answer this Design, and for this Purpose to take both the old and new under Consideration.

Which was read and ordered to lie on the Table.

Mr. Lloyd appeared in the House.

The House proceeded further to an Hearing on the Petition of *William Husband, &c.* and after some Time spent therein, referred the same for further Consideration To-morrow Morning.

Mr. Joseph Richardson, and Mr. Handy, have Leave of Absence.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## T H U R S D A Y, November 14th, 1771.

THE House met. All Members appeared as on Yesterday.

The Proceedings of Yesterday were read.

The Petition of the Rector, Vestrymen, &c. of *Saint John's* (commonly called *King George's*) Parish, was read the First and Second Time, and granted, Leave given to bring in a Bill pursuant to the Prayer of the said Petition. ORDERED, That Mr. Beall, Mr. Tyler, Mr. Smallwood, and Mr. Harrison, do prepare and bring in the same.

Mr. So. Wright brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act to regulate the Criminal Business of Baltimore County*: Which was read the First Time and ordered to lie on the Table.

The Bill, entitled, *An Act for the Security of Purchasers and others, being Protestants, claiming by or from Aliens*, was read with the Amendment proposed by the Upper House, and the Amendment was rejected.

ORDERED, That the said Bill be enforced by a Message to the Upper House.

ORDERED, That Mr. Wootton, Mr. Luckett, Mr. Handy, and Mr. Hall, do prepare and bring in the said Message.

Mr. Paca brings in and delivers to Mr. Speaker the following Report.



By the COMMITTEE appointed to enquire into the Facts set forth in the Petition of Elizabeth Williams, Administratrix of George Williams, with the Will annexed.

YOUR Committee, in Obedience to the Order of this Honourable House, have enquired into the Facts set forth in the said Petition, and do find, that *George Williams* executed a Bond, in the Penalty of Five Hundred Eighty-three Pounds Ten Shillings *Pennsylvania* Money, to *Robert Smith*, for the Conveyance of a Tract of Land, called *Williams's Discovery*, in *Baltimore* County, and of one other Tract of Land, called *Frankford*, and of Ten Acres of Land adjoining thereto, in said County, in Fee Simple to the said *Robert Smith*; and that the said *Robert Smith* executed Bonds to the said *George Williams*, one for the Payment of £. 191 15 0 *Pennsylvania* Money, and another for the Payment of £. 100 0 0 like Money; which Sums of Money were the Consideration for the Lands in the said Bond of Conveyance mentioned. That the said *George Williams* also executed a Bond, in the Penalty of Eight Hundred Pounds Current Money, to *Thomas Baley*, for the Conveyance of a Tract of Land, called *Milford*, and one other Tract, called *Williams's Neglect*, lying and being in *Queen Anne's* County, in Fee Simple to the said *Thomas Baley*; and that the said *Thomas Baley* executed Bonds to the said *George Williams*, one for the Payment of Two Hundred Pounds *Pennsylvania* Money, and another for the Payment of Two Hundred and Forty Pounds like Money, as a Consideration for the said Lands in the said Bond of Conveyance mentioned. That the said *George Williams* aforesaid died without executing the Conveyances according to his said several Contracts, and that considerable Sums of Money are due upon the Bonds aforesaid, so as aforesaid executed to the said *George Williams*. That the said *George Williams* made his Will, and appointed the Petitioner and others Executors, as mentioned in the said Petition; which said Will was made at *Philadelphia*, and Letters of Administration there granted to *Jane*, *Eleanor*, and *Henry Williams*, and the Petitioner. That the Bonds aforesaid being Debts within this Province, Letters of Administration were granted, with the Will annexed, to the Petitioner alone, by and with the Consent of the several Persons aforesaid nominated as Executors. That the Heir at Law of the said *George Williams* is an Infant within the Age of Twenty-one Years, and the said Administratrix is unable to collect the Debts aforesaid, from a Want of Power to make Conveyances pursuant to the said several Contracts of the said *George Williams*.

Your Committee beg Leave to observe to this honourable House, that *Henry Williams* was seized in Fee of the Tract of Land aforesaid, called *Milford*, in *Queen-Anne's* County; and in the Year 1757 executed the following Instrument of Writing to *George Williams*. In the Records of *Queen-Anne's* County is contained the following Instrument of Writing, to wit.

*Queen-Anne's* County, ss.

November the Sixteenth Day, *Anno Domini* One Thousand Seven Hundred and Fifty Seven, the following Instrument was brought to be recorded, viz.

DUTY paid. } KNOW all Men by these Presents, that I *Henry Williams*, of *Baltimore*  
B. Bordley, Cl. } County, and Province of *Maryland*, now being settled on Land and Mills, with Goods and Chattels, at my own Free Choice, (wherewith I am well contented) by my Father in Law *George Williams*, of *Cecil* County and Province aforesaid, have and do, in Consideration thereof, forever quit Claim, and invest on the said *George Williams*, his Heirs and Assigns forever, all and singular the Estate of my Father *Abraham Williams*, deceased, real and personal, except such Goods and Chattels as now is in my Hands in *Baltimore* County; and do hereby oblige myself, my Heirs, Executors and Administrators, to sign, seal, acknowledge and deliver, all and every such Conveyances as the said *George Williams* or his Attorney learned in the Law, may, at their reasonable Request, devise or require. And I do constitute and appoint my Father *George Williams* my lawful Attorney, to sue for, levy and recover, as if I myself were personally present, and proper Discharge to make or give, of, in and concerning the Premises abovementioned, or touching all and every Thing or Things, Device or Devices, that have therefrom arisen or may hereafter, by any Ways or Means whatsoever, for his own proper Use, but at his own Cost and Charges; and for the true Performance and abiding hereby, I do hereby bind myself, my Heirs, Executors and Administrators, in the just Sum of Five Hundred Pounds Sterling Money of *Great-Britain*. In witness whereof, I do hereunto set my Hand and Seal, this Fifth Day of *August*, *Annoq. Domini* 1757.

Signed, sealed and delivered  
in the Presence of

FRANCIS JENKINS, jun.  
F. THO. FRAZIER,  
his  
WILLIAM W JONES.  
Mark.

HENRY WILLIAMS.

In Testimony that the above is a true Copy I hereto set my Hand, and affix the Seal of *Queen-Anne's* County aforesaid, this 29th Day of *October*, *Anno Domini* 1771.

R. TILGHMAN, Cl. *Queen-Anne's* County.

Your Committee beg Leave to inform this honourable House, that the Consideration of the aforesaid Instrument of Writing, was the Exchange of a Parcel of Land in *Baltimore* County, called *Milford*, which was held by Lease from the Lord Proprietary; upon which said Parcel of Land was erected, at the Time, a valuable Mill: That the said Instrument of Writing was passed before the Date of the Bond executed as aforesaid, by the said *George Williams* to the said *Thomas Baley*, and that the said *George Williams* derives his Title under the said Instrument

of



of Writing: That the Parcel of Land given in Exchange as aforesaid, was by a Deed, duly executed by the said *George Williams*, made over and conveyed to the said *Henry Williams*, who afterwards, for a valuable Consideration, sold the said Parcel of Land and Mill: That the said *Henry Williams* is since dead, and his Heir at Law an Infant, within the Age of Twenty-one Years.

All which is humbly submitted to the Consideration of this honourable House.

*Signed per Order,*

W. WRIGHT, Cl. Com.

Which was read and ordered to lie on the Table.

ORDERED, That the Propositions of the Conferrees of the Upper House, brought in Yesterday by Mr. *Grabame*, be again read; and they were read accordingly.

ORDERED, That the same be taken into Consideration To-morrow Morning at the Sitting of the House.

The House resumed the Consideration of the Petition of *William Husbands*, &c. and after having heard the Testimony of many Evidences at the Bar, ordered the Counsel and the Parties to withdraw; and after some Debate in the House, it was ordered that the Petition of *William Husbands* be rejected.

*Daniel of St. Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker a Petition of the Traders in the Town of *Bladensburg*, in *Prince-George's* County, setting forth, that the Situation of *Bladensburg* is convenient for the Flour Trade of a considerable Part of the County: That the Navigation from thence to *Carrollsburg* is about to be rendered easy, and therefore praying that an Inspection upon Flour may be established at *Carrollsburg* and at *Bladensburg*: Which was read the First Time and ordered to lie on the Table.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## F R I D A Y, November 15th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

Mr. *Chase* appeared in the House.

On Motion, ORDERED, That Leave be given to bring in a Bill for the further Adjournment and Continuance of the High Court of Appeals; and that Mr. *Paca* and Mr. *Wootton* do prepare and bring in the same.

Mr. *Paca* brings in, and delivers to Mr. Speaker the said Bill: Which was read the First and Second Time, by an especial Order, passed, and sent to the Upper House with the engrossed Bills, N<sup>o</sup>. 18, 19, 20, 21, 22, 23, 24, by Mr. *N. Thomas* and Mr. *Moale*.

Mr. *Parran* being much indisposed hath Leave of Absence.

*Daniel of St. Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker the Bill, entitled, *An Act for the further Adjournment and Continuance of the High Court of Appeals*; thus endorsed: "By the Upper House of Assembly, November 15, 1771: Read the First and Second Time, by an especial Order, and will pass.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

Which Bill was read here and passed for engrossing.

The engrossed Bill, N<sup>o</sup>. 25, read and assented to, and sent to the Upper House with the Paper Bill thereof by Mr. *Paca* and Mr. *Lloyd*.

*John Ridout*, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bills, N<sup>o</sup>. 18, 19, 20, 21, 22, 23, 24, severally endorsed: "By the Upper House of Assembly, November 15th, 1771: The engrossed Bill, whereof this is the Original, read and assented to.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

*George Steuart*, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bill, N<sup>o</sup>. 25; thus endorsed: "By the Upper House of Assembly, November 15th, 1771: The engrossed Bill, whereof this is the Original, read and assented to.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

Mr. *Grabame*, Mr. *Earle*, and Mr. *So. Wright*, have Leave of Absence till Monday next.

On Motion, ORDERED, That Leave be given to bring in a Bill for the Adjournment and Continuance of *Frederick County Court*; and that Mr. *Wootton* and Mr. *Luckett* do prepare and bring in the same.

Mr. *Beall* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act empowering the Justices of Prince-George's and Charles Counties, to levy on the taxable Inhabitants of St. John's (commonly called King George's) Parish, in said Counties, the Quantity of Fifty-six Thousand Pounds of Tobacco, for the Purposes therein mentioned.*

Mr. *Wootton* brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for the Adjournment and Continuance of Frederick County Court*: Which was read the First and Second Time, by an especial Order, passed, and sent to the Upper House by Mr. *Wootton* and Mr. *Luckett*.

Mr. *Chase* delivers to Mr. Speaker, a Petition of the Free-holders and Free-voters of *Frederick County*, complaining of an undue Return of a Member, returned from that County in the Room of Mr. *Jonathan Hagar*, whose Seat was lately declared void.

Which was read.

The Conferrees of this House, with the Addition of Mr. *Paca*, are appointed a Committee to draw up an Answer to the last Propositions from the Conferrees of the Upper House.

*The House adjourns till To-morrow Morning 9 o'Clock.*

S A T U R D A Y,



S A T U R D A Y, November 16th, 1771.

THE House met. All Members present as on Yesterday, except Mr. *Grahame*, Mr. *Parran*, Mr. *Handy*, Mr. *J. Richardson*, Mr. *W. Richardson*, Mr. *So. Wright*, and Mr. *Earle*. The Proceedings of Yesterday were read.

The House being informed, that Mr. *Jonathan Hagar*, a Delegate returned for *Frederick County*, to serve in this present Session of Assembly, was attending at the Door: ORDERED, That Mr. *Beatty* and Mr. *Luckett* do go with that Gentleman to the Upper House to see him qualified.

They return, and acquaint Mr. Speaker, they saw him qualified in the usual Manner.

The Gentleman took his Seat in the House.

Mr. *Harrison* brings in, and delivers to Mr. Speaker the following Report:

By the COMMITTEE appointed to enquire into the Truth of the Facts contained in the Petition of *Alexander Cumming*.

IN Obedience to the Order of the honourable House, your Committee have proceeded to examine into the Facts aforesaid, and find them all agreeable with the Report made to the honourable House, at November Session 1770, on the Petition then preferred by the now Petitioner, and which is set forth in his above Petition.

Your Committee also pray Leave to report to your Honours, that *William Cumming* the elder, the Father of the present Petitioner, executed a Deed of Mortgage to Mr. *Philip Hammond*, as alleged by him in his said Petition; on which Mortgage and mortgaged Premises, your Committee apprehend, that the Petitioner hath, and is entitled to the Equity of Redemption, as Heir at Law to his Father; and also, under the Deed of Bargain and Sale and Release aforesaid, from *William Cumming* the younger, to him.

Your Committee beg Leave further to Report, that the Petitioner sustained very considerable Damage from the Soldiery, when quartered on the Premises aforesaid, and in particular the Loss of a good framed House, near 40 Feet in Length by 20 odd Feet in Width, burnt by them, together with a large Part of the lower Flooring of the Dwelling House aforesaid, in which the Petitioner's Father lived, and of all or most of the Window Glass of said House, which was broken by them, whereby the Premises aforesaid were rendered untenable.

All which is submitted to the Consideration of the honourable House.

Signed per Order,

W. WRIGHT, Cl. Com.

Which was read the First Time and ordered to lie on the Table.

The Report brought in the 14th Instant by Mr. *Paca*, was read a Second Time; and the Petition of *Elizabeth Williams*, was read and granted.

Leave given to the Petitioner to bring in a Bill pursuant to the Prayer of the said Petition.

Mr. *Johnson* brings in, and delivers to Mr. Speaker, a Message to the Upper House: Which was read and agreed to, and ordered to be engrossed.

Mr. *Gresham* hath Leave of Absence till Monday next.

*George Stewart*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act for the Adjournment and Continuance of Frederick County Court*; thus endorsed: "By the Upper House of Assembly, November 16th, 1771: Read the First and Second Time, by an especial Order and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here and passed for engrossing.

The engrossed Bill N<sup>o</sup>. 26, read and assented to, and sent to the Upper House, with the Paper Bill thereof, by Mr. *Wootton* and Mr. *Beatty*.

Mr. *Johnson* brings in, and delivers to Mr. Speaker the following engrossed Message.

By the LOWER HOUSE of ASSEMBLY, 16th, Nov. 1771.

May it please your HONOURS,

WE are much concerned to find that scarce any Money Bill hath lately been sent to your House to which your Honours have not proposed an Amendment. This House do, and ever will claim as their inherent, undoubted and fundamental Right, the sole and exclusive Formation of all Money Bills, as well for the Application and Disposition, as for the granting and raising of all publick Money; nor will we ever give up or wave or weaken that Right in any Manner. We should therefore, had there been no other Reason, have rejected the Amendment proposed by your Honours to the Bill, entitled, *An Act for the further Emission of Bills of Credit*: But even if this House had not that undoubted Right, we could not have come into your proposed Amendment, it appearing to us, that Four Years are a sufficient Time for the whole Legislature to agree in the Scheme of establishing a Seminary of Learning: That if any Circumstances should unluckily happen to prevent the Assembly from attending to this Object, the Time might and undoubtedly would be lengthened; and that if unhappily, contrary to our Expectation and earnest Wish, an Agreement therein should not within that Time be likely to be effected, it is much more prudent that the present Bill should explicitly declare what shall be done with the Forty-two Thousand Six Hundred and Sixty-six Dollars and Two Third Parts of a Dollar, than that we should be now laying the Foundation for another Dispute to be added to the Number subsisting, which are already too many. We have therefore returned your Honours the Bill, in Hopes that these Considerations will induce you to pass it.

Signed by Order,

O

JOHN DUCKETT, Cl. Lo. Ho.  
Which



54 VOTES AND PROCEEDINGS, OCTOBER 1771.

Which was read and assented to, and sent to the Upper House, with the Bill, entitled, *An Act for the further Emission of Bills of Credit*, by Mr. Johnson and Mr. Hall.

Mr. Tilghman brings in, and delivers to Mr. Speaker the following Report :

By the COMMITTEE of ELECTIONS and PRIVILEGES, November 16th, 1771.

YOUR Committee having inspected the Writ directed to the Sheriff of *Frederick County*, for electing one Deputy and Delegate to serve in this General Assembly, and the Return of the said Writ, do find, that Mr. *Jonathan Hagar* is duly returned a Delegate for the said County of *Frederick*, and submit the same to the Consideration of the honourable House.

Signed by Order,

THOMAS B. HODGKIN, Cl. Com.

Which was read.

The Petition of the subscribing Free-holders and Free-voters of *Frederick County*, was read a Second Time.

ORDERED, That an Hearing on the said Petition be had at the Bar of this House on the Fourth Day of the next Session of Assembly; and that the Sheriff of *Frederick County* do attend at the Bar of this House on that Day, and bring with him the original Poll taken at the late Election for one Delegate to serve in this Assembly for that County.

ORDERED, That the sitting Member and the Petitioners exchange Lists of the Names of those whose Votes they respectively intend to object against, by the 20th Day of *December* next, expressing their particular Objections, and therein confining themselves to such Objections as were made and entered on the Polls at the Time of Polling.

ORDERED, That the Petitioners, and all Parties concerned, have Summonses for Witnesses in Relation to the said Petition, upon their Application to the Clerk of this House for that Purpose.

*Daniel of St. Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker, the Paper Bill No. 26; thus endorsed: "By the Upper House of Assembly, November 16th, 1771: The engrossed Bill, whereof this is the original, read and assented to.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

The Bill, entitled, *An Act empowering the Justices of Prince George's and Charles Counties, to levy on the taxable Inhabitants of Saint John's (commonly called King George's) Parish, in said Counties, the Quantity of Fifty-six Thousand Pounds of Tobacco, for the Purposes therein mentioned*, was read the First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. Beall and Mr. Tyler.

Mr. Jordan hath Leave of Absence.

ORDERED, That the Clerk of this House write to the several absent Members, acquainting them, that this House requires their immediate Attendance.

The House adjourns till Monday Morning 9 o'Clock.

M O N D A Y, November 18th, 1771.

THE House met. All Members present as on Saturday, except Mr. *Gresham*, Mr. *Earle*, and Mr. *So. Wright*. The Proceedings of Saturday were read.

Mr. *Owings*, Mr. *Contee*, Mr. *Weems*, and Mr. *W. Richardson*, appeared in the House.

A Bill, entitled, *An Act for the Naturalization of Charles Frederick Weisenthall*, was read a First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. *Deye* and Mr. *Moale*.

The House being informed, that Mr. *Francis Ware*, and Mr. *Josias Hawkins*, Two Delegates returned for *Charles County* to serve in this present Session of Assembly, were attending at the Door; ORDERED, That Mr. *Smallwood* and Mr. *Harrison* do go with those Gentlemen to the Upper House to see them qualified. They Return and acquaint Mr. Speaker they saw them qualified in the usual Manner. The Gentlemen took their Seats in the House.

Mr. Hall brings in and delivers to Mr. Speaker the following Paper,

WERE the Lower House willing to continue the Regulation of the late Inspection Law, in Respect of the Clergy, with a Proviso, that in all Parishes, on the Death or Removal of the present Incumbents, the Alternative shall take Place, a Doubt would remain, whether the Alternative should be on Thirty or Thirty-two Pounds of Tobacco, and how long that Regulation should continue.

Amongst the Proceedings of this Legislature no Subject of Controversy more frequently occurs than the Limitation of Officers Fees; a Proof not only of the Necessity of such a Limitation, but also of the Difficulty of obtaining it. In the Year 1745 the Regulation of Officers Fees was a principal Object of Attention. A Bill was framed in Consequence of the Agreement between Conferrees, and passed both Houses.

The Charge of the Commissary-General for Services performed by his Deputies, and for which they were paid, was then under Consideration; it was Twice agitated in Conference, and finally agreed by the Conferrees, that the Commissary-General should have no Fees on Services done by the Deputy Commissaries in Virtue of their Offices. For your further Satisfaction in this Point we beg Leave to trouble you with the following Extract.

" At



" At a CONFERENCE of both Houses of Assembly appointed to regulate the several Officers Fees, on Monday the 16th Day of September, 1745.

W E R E P R E S E N T,

The Honourable BENJAMIN TASKER, and DANIEL DULANY, Esqrs. of the Upper House.

Mr. JOSHUA GEORGE,

Major HENRY HALL,

Col. JOHN HALL,

Mr. NICHOLAS GOLDSBOROUGH,

Mr. JOHN GRESHAM,

Doctor GEORGE BUCHANAN,

} of the Lower House.

Who make Choice of *Benjamin Tasker*, Esq; Chairman, and *Richard Dorsey* their Clerk.

Your Conferrees have agreed that the Officers Fees should be under the following Regulations, viz.

" THAT there shall be Fifteen Pounds of Tobacco allowed for all Searches in the superior Offices; Searches under a Year's standing not to be charged: And Nine Pounds of Tobacco *per Side*, reckoning One Hundred and Five Words to a Side, for recording and copying in the same Offices.

" That there shall be a Deduction of one Fifth of all Officers Fees as now taken, except for the above Two Articles.

" That the Commissary-General shall have no Fees on small Estates which shall not exceed the Value of Thirty Pounds Currency, nor on Services which shall be done by the Deputy Commissaries in Virtue of their Offices.

" That there shall be Tables of the several Fees in the Act according to the Limitation now agreed on.

" That Clerks shall be restrained from entering any Motions or Orders in Civil or Criminal Cases, but where any Party shall desire and pay for the Entry.

" That there be a proper Clause in the Act to restrain Officers from exacting or taking any more or other Fees than such as shall be mentioned in it; and that there be an Oath of Office; and that the Act shall continue for Seven Years, and to the End of the next Session of Assembly which shall happen after the End of the said Seven Years."

This Extract needs no Comment. The Sense of the Two Houses on this Point is fully and clearly expressed. It is true that the Bill for Limitation of Officers Fees, with several other Bills of Importance, were rejected by the Governor; for what Reason does not appear, but it may be conjectured, and perhaps your Honours may know that it was because the Lower House did not pass a Bill for Arms and Ammunition, which at that Time was deemed an Object of the first Concern with Government.

In the Year 1747, when the Inspection Law first passed, including a Regulation of the Staple as well as of the Officers Fees, this Point of the double Charge does not appear to have been agitated. A minute Detail of the Circumstances attending the several Re-enactings and Continuances of that Law, would not discover any great Fondness for that Part of it which relates to Officers Fees; and the Continuance of it in the Year 1769 for one Year only, with the Intention of going fully into the Consideration of Officers Fees at the next Session, was a Proof to all the World that the old Table of Fees was then looked upon as defective in many Respects.

At the next Meeting of Assembly a new Regulation of Fees was framed with many material Alterations of the old, and in the Course of that Session the Inspection Law fell. How this can afford, or even seem to afford, a strong Proof that the Opinion of the Legislature has long been, that the old Table as it stood when the Inspection Law fell, was well adapted to the Purposes of it, we shall leave to your Honours to explain. It is said that Deputy Commissaries were instituted by the Act of 1715, for the Ease and Convenience of the People, to give them an Option of doing their Business at home or at *Annapolis*, but with no apparent View of diminishing the Fees of the Commissary-General. It may be asked whether publick Offices were erected for the Emolument of Officers, or for the Benefit of the People? Were Deputies appointed with any apparent View of encreasing the Expence of the People, by making them pay Twice for the same Service? Or are they to pay for the Ease and Convenience afforded them by the Legislature? From the Expression in that Act, that in the Case of Pauper Estates the Commissary-General shall have no Fees, it cannot be inferred that in all other Estates he shall be allowed to charge Fees for Services not done. The Prohibition had been just as necessary if no such Charge as what is called the double Charge had ever been made; because without it the Commissary-General would have charged his Fees on that Part of the Business, which upon every Administration, as well Pauper as others, must necessarily be transacted in his Office, such as recording the Inventory, &c. It is so repugnant to every Principle of Reason and Justice, that an Officer shall be allowed to charge for a Service he does not perform, and for which another is paid, that to reason about it, is to weaken, if possible, the Self Evidence of the Proposition. Nothing but Usage can in any Sort countenance a Charge so manifestly unjust, and tho' that Practice may have been uninterrupted, yet it has nevertheless for many Years been a Subject of general Complaint, and it is a Matter of Wonder, that it has been so long submitted to by the People. In the Year 1753 this Point was again agitated, and an Alteration in that, as well as other Respects, attempted. The Sense of the Lower House was sufficiently shewn,



shewn, by their Bill with these Alterations of the Table of Fees, though they were afterwards induced to come into the Amendments proposed by the Upper House.

The Fact is too notorious to be denied, that the Table of Fees under the First Inspection Law, was then adopted, and hath been since continued, not so much from the Impressions of the Propriety and just Proportion of the Reward to the Service, as from the Utility of that Bill in other Respects; and the Necessity of agreeing to an imperfect Table of Fees, or losing a Regulation of the Staple, allowed on all Hands to be very beneficial to the People.

The Interest of the Commissary-General would be consulted by an Acceptance of what is now proposed, because we are fully convinced, that in Case the Table should be passed in the Manner it formerly stood, the double Charge would be disputed; and, we are of Opinion, would not be recovered in Case the Point should be fairly controverted before a Jury; and if the Table is not passed into a Law, we know of no Action that would lie for a *Quantum Meruit* where the Service is not done.

We have already declared, that we are not desirous of reducing the Offices below the Acceptance of Gentlemen of Abilities and Distinction; and, if upon the best Calculation we can make, any of them shall appear, by the proposed Alterations, to be reduced too low, we shall most readily, upon the present Conference, encrease the Fees in such a Manner as that they may amount to a handsome and adequate Income: But that no further Time may be thrown away in this Business, we must, in the most explicit Manner declare, it is our fixed unalterable Resolution, not consent to any Regulation, unless Provision be plainly and effectually made against the Charge of the Commissary-General, for Services done by his Deputies, and for which they are paid, and the Charge for Recording where that Service is not done. If, therefore, the Upper House do adhere to their Resolution of not admitting any further Reduction than what must necessarily result from the Election to be given to all Persons to pay in Money or Tobacco, and are of Opinion, that the above Charges are agreeable to, and may be justified by the old Table, nothing further can possibly be done. If, on the Contrary, they are willing to explain and correct the Table in these Particulars, so as to prevent such Charges in future, we shall most cheerfully proceed to take both the new and old Table under Consideration.

Daniel Dulany, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act for the further Emission of Bills of Credit*, and the following Message.

By the UPPER HOUSE of ASSEMBLY, Nov. 18th, 1771.

GENTLEMEN,

YOUR Message of the 16th Instant, with the Bill, entitled, *An Act for the further Emission of Bills of Credit*, seems to import, that our Amendments of Bills you call Money Bills are of late Date; but we must take the Liberty to observe, that the Journals demonstrate the contrary in the clearest Manner, and if the Course of Precedents be attended to, abundant Instances must occur, not only of Amendments of real Money Bills by the Upper House, admitted by the Lower, but of these Bills framed in a Committee of both Houses, and even having taken their Rise in the Upper House; and such, moreover, are the very peculiar Circumstances of the present Business, that we must think your Complaint of Innovation and Claim of Privilege to be most extraordinary, for when the original Bill of 1733, for emitting Bills of Credit, was sent hither, the Upper House judging many Amendments to be expedient, proposed a Conference, which took Place on the Occasion. Members appointed by each House attended the Conference. Various and most material Alterations were proposed and adopted; the original Bill as framed in the Lower House, was for emitting only Seventy-two Thousand Pounds in Bills of Credit, but the Sum was agreed, on the Conference, to be augmented to £. 90,000. By the express Terms of this Bill, which passed into a Law in 1733, any Money remaining in Bank, and Monies lent, and the Interest thereof, after sinking the £. 90,000, were subjected to such Application and Disposal as the *Assembly of this Province* should think proper; and we need not, surely, prove by Argument, that the Surplus Money thus became expressly and equally subject to our and your Application, or that this very Surplus, so subjected, is the Foundation of the Emission you have proposed.

According to your present extensive Ideas of a Money Bill, and of Privilege, tho' by your Bill, Forty-two Thousand Six Hundred and Sixty-six Dollars and Two Thirds of a Dollar might be applied hereafter, to the Purpose of establishing a Seminary of Learning in this Province, in such Manner as should be directed by Act of the General Assembly thereof; yet the Upper House might be precluded from considering what System of Instruction and Enforcements of Discipline would be most proper.

The original Bill, which passed into a Law in 1733, having been framed and corrected in the Manner we have related, the Surplus Money therefrom having been expressly subjected as well to our as your Disposal, and this Surplus being the Foundation of the Emission you have proposed, your Claim of Privilege, and the obvious Consequence of its Admission, render the firmest Adherence to our Amendment indispensable; and we trust, that whilst we act upon these Principles, Candour will acquit us of all Designs to multiply the Topicks of Controversy, which indeed are already too many.

Signed by Order, U. SCOTT, Cl. Up. Ho.

ORDERED, That the said Message be read; and it was read accordingly.

Mr. Chase brings in, and delivers to Mr. Speaker, a Bill, entitled, *An Act for amending and declaring the Law in the Cases therein mentioned*: Which was read the First Time and ordered to lie on the Table.

The House adjourns till To-morrow Morning 9 o'Clock.

TUESDAY,



TUESDAY, November 19th, 1771.

THE House met. All Members present as on Yesterday, except Mr. Thomas Wright (who is in Town unwell) and Mr. Lloyd. The Proceedings of Yesterday were read. Mr. Chamberlaine, Mr. Earle, Mr. So. Wright, and Mr. Gresham, appeared in the House. The Petition of Christian Stowder is referred for Consideration on the Tenth Day of the next Session of Assembly.

Mr. Johnson brings in, and delivers to Mr. Speaker the following Report :

By the COMMITTEE appointed to enquire into the Facts set forth in the Petition of Jane Ridgely, November 19th, 1771.

YOUR Committee have, in Obedience to the Order of your honourable House, examined into the Facts set forth in the said Petition, and find the same are true.

Signed per Order, JOHN COURTS JONES, Cl. Com.

Which was read. And the Petition of Jane Ridgely was read and granted.

Leave given to the Petitioner to bring in a Bill pursuant to the Prayer of the said Petition.

The Petition of the Inhabitants of St. Paul's Parish, in Baltimore County, is referred for Consideration on the Second Monday in next Session.

Mr. Ennalls hath Leave of Absence.

The House being informed that Mr. William Ringgold, a Delegate returned to serve in this present Session of Assembly for Kent County, was attending at the Door; ORDERED, That Mr. Gresham and Mr. Buchanan do go with that Gentleman to the Upper House to see him qualified.

They return, and acquaint Mr. Speaker they saw him qualified in the usual Manner.

The Gentleman took his Seat in the House.

William Hayward, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, An Act empowering the Justices of Prince-George's and Charles Counties, to levy on the taxable Inhabitants of St. John's (commonly called King George's) Parish, in said Counties, the Quantity of Fifty-six Thousand Pounds of Tobacco, for the Purposes therein mentioned; thus endorsed: "By the Upper House of Assembly, November 16th, 1771: Read the First Time and ordered to lie on the Table."

Signed by Order, U. SCOTT, Cl. Up. Ho.  
"By the Upper House of Assembly, November 19th, 1771: Read the Second Time and will pass."

Signed by Order, U. SCOTT, Cl. Up. Ho.  
Which was read here and passed for engrossing.

On reading a Second Time the Propositions brought in Yesterday by Mr. Hall, the Question was put, that the following Words, viz. "And if, upon the best Calculation we can make any of them shall appear, by the proposed Alterations, to be reduced too low, we shall readily, upon the present Conference, encrease the Fees in such a Manner as that they amount to a handsome and adequate Income," be struck out? Resolved in the Negative.

For the NEGATIVE.

Messrs	{	Buchanan,	Mackall,	Gale,	Contee,	N. Thomas,
		Ringgold,	Smallwood,	Adams,	Hall,	Chamberlain
		Johnson,	Harrison,	W. Richardson,	Paca,	So. Wright,
		Chafe,	Ware,	Ennalls,	Tilghman,	Earle.
		Hammond,	Hawkins,	Baxter,		

For the AFFIRMATIVE.

Mess.	{	Gresham,	Moale,	Ward,	Luckett,	Beatty,
		Worthington,	Risteau,	Beall,	Wootton,	Hagar.
		Weems,	Deye,	Tyler,		

Mr. Paca brings in, and delivers to Mr. Speaker an Address to the Governor: Which was read and ordered to lie on the Table.

The Bill, entitled, An Additional Supplementary Act to the Act, entitled, An Act for the Establishment of Religious Worship in this Province according to the Church of England, and for the Maintenance of Ministers, was read a Second Time, and the Question was put, that the said Bill be referred for Consideration next Session? Resolved in the Negative.

For the NEGATIVE.

Messrs	{	Gresham,	Mackall,	Ennalls,	Hall,	Wootton,
		Buchanan,	Gale,	Baxter,	Paca,	Beatty,
		Worthington,	Adams,	Ward,	N. Thomas,	Hagar.
		Johnson,	W. Richardson,	Tyler,	So. Wright,	

For the AFFIRMATIVE.

Mess.	{	Ringgold,	Weems,	Ware,	Deye,	Tilghman,
		Chafe,	Smallwood,	Hawkins,	Beall,	Earle.
		Hammond,	Harrison,	Risteau,	Contee,	

Then the Question was put, that the said Bill do pass? Resolved in the Affirmative.



# 58. VOTES AND PROCEEDINGS, OCTOBER 1771.

## For the A F F I R M A T I V E.

Messrs	Gresham,	Weems,	W. Richardson,	Tyler,	So. Wright,
	Buchanan,	Ware,	Ennalls,	Contee,	Earle,
	Worthington,	Hawkins,	Baxter,	Hall,	Wootton,
	Johnson,	Gale,	Ward,	Paca,	Beatty,
	Mackall,	Adams,	Beall,	N. Thomas,	Hagar.

## For the N E G A T I V E.

Messrs	Ringgold,	Hammond,	Harrison,	Deye,	Tilghman,
	Chase,	Smallwood,	Risteau,		

The Bill, entitled, *An Act for amending and declaring the Law in the Cases therein mentioned*, was read the Second Time and committed for Amendment.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## W E D N E S D A Y, November 20th, 1771.

THE House met. All Members present as on Yesterday, except Mr. Ennalls.

The Proceedings of Yesterday were read.

Mr. Risteau brings in, and delivers to Mr. Speaker the following Report :

*By the COMMITTEE appointed to enquire into the Expenditure of the Money granted for building a Court-House and Prison in the Town of Baltimore, in Baltimore County, Nov. the 20th, 1771.*

YOUR Committee beg Leave to report to your honourable House, that it appears to your Committee, that the Sum of One Thousand Nine Hundred and Sixty-three Pounds Nineteen Shillings and Ten-pence hath been received by the Commissioners appointed by the Act of Assembly for building the said Court-House and Prison, on Account of the Tax imposed on the Inhabitants of that County, and that the further Sum of Seven Hundred and Fifty Pounds Seventeen Shillings hath been received by them for Subscriptions, amounting together to Two Thousand Seven Hundred and Fourteen Pounds Sixteen Shillings and Ten-pence : That One Hundred and Thirteen Pounds Twelve Shillings and Six-pence is still outstanding due from Subscribers who are thought solvent, and Forty-eight Pounds Two Shillings and Six-pence from Subscribers who are thought to be insolvent : That the Sum of Two Thousand Seven Hundred and Seventy-six Pounds Seventeen Shillings and Nine-pence hath been expended by the said Commissioners, and actually paid by them in and about the Purposes aforesaid, which is evidenced by a proved Account of the said Commissioners, laid before your Committee ; and that there are still some Accounts not yet paid or brought in, with which they stand chargeable : So that it appears to your Committee, that the said Commissioners have actually paid and advanced Sixty-two Pounds and Eleven-pence more than they have actually received.

Your Committee further beg Leave to make known to your honourable House, that after the Prison was finished, and the Night before it was to have been delivered to the Sheriff, the same was burnt down, and hath been since rebuilt and delivered to the Sheriff ; and that the Walls of the First Story of the Court-House are carried up, but the Joists not on ; some of the Materials for further prosecuting the building of the Court-House being already purchased, and many Materials necessary for compleating it being still wanting.

All which is humbly submitted to the Consideration of your honourable House.

*Signed per Order,*

JOHN C. JONES, Cl. Com.

Which was read a First and Second Time ; and the House was moved, that Leave be given to bring in a Bill to levy on the taxable Inhabitants of Baltimore County the Quantity of Three Hundred Thousand Pounds of Tobacco, for finishing and compleating the Court-House and Prison of the said County.

Upon Consideration whereof, after some Debate, RESOLVED, That Leave be given to bring in the said Bill, and Mr. Moale, Mr. Risteau, Mr. Deye, and Mr. Paca, are appointed a Committee for that Purpose.

The engrossed Bill N<sup>o</sup>. 27, was read and assented to, and sent to the Upper House with the Bill, entitled, *An Additional Supplementary Act to the Act, entitled, An Act for the Establishment of religious Worship in this Province according to the Church of England, and for the Maintenance of Ministers*, by Mr. Mackall and Mr. Contee.

The Report brought in on Saturday last by Mr. Harrison, was read a Second Time.

Daniel of St. Thomas Jenifer, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bill N<sup>o</sup>. 27 ; thus endorsed : " By the Upper House of Assembly, November 20th, 1771 : The engrossed Bill, whereof this is the Original, read and assented to.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

And the engrossed Bill N<sup>o</sup>. 28 ; thus endorsed : " By the Upper House of Assembly, Nov. 20th, 1771 : Read and assented to.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

Which was read here and assented to.

John Ridout, Esq; from the Upper House, delivers to Mr. Speaker a Petition of George Frasier Hawkins, praying an Act may pass, empowering him to sell certain Lands of John Stone Hawkins,



kins, late of Prince-George's County, deceased, for the Payment of the Debts of the said John Stone Hawkins, and to reimburse him certain Sums he had advanced for the Payment of Part the said Debts. Which was read.

ORDERED, That the same be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them to the House; and Mr. Beall, Mr. Tyler, Mr. Contee, and Mr. Hall, are appointed a Committee accordingly; and they have Power to send for Persons, Papers and Records.

George Steuart, Esq; from the Upper House, delivers to Mr. Speaker, a Petition of John Deavor, for and on Behalf of William Fell, an Orphan, Son of Edward Fell, late of Baltimore County, deceased: Which was read, and referred for Consideration on the Second Thursday in next Session.

Mr. Wootton brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act directing the Manner of punishing Fornication and Adultery before a single Justice of the Peace out of Court*: Which was read the First Time and ordered to lie on the Table.

A Bill, entitled, *An Act to enable the Executors of Thomas Colvill to convey the Land therein mentioned*, was read a First and Second Time by an especial Order, passed, and sent to the Upper House, with the Paper Bill No. 28, by Mr. Smallwood and Mr. Moale.

The Bill, entitled, *An Act for amending and declaring the Law in the Cases therein mentioned*, was read with the Amendments for which it had been committed, passed, and sent to the Upper House by Mr. Paca and Mr. Chase.

Benedict Calvert, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act to enable the Executors of Thomas Colvill to convey the Land therein mentioned*; thus endorsed: "By the Upper House of Assembly, Nov. 20, 1771: Read the First and Second Time" by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here and passed for engrossing.

The Bill, entitled, *An Act to regulate the Criminal Business of Baltimore County*, is referred for Consideration next Session of Assembly.

The Bill, entitled, *An Act for the Relief of the Sufferers at Bladenburgh Warehouse*, was read a Second Time, and the Question was put, That the said Bill do pass? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messieurs {	Worthington,	Harrison,	Ward,	Hall,	Wootton,
	Hammond,	Ware,	Beall,	Tilghman,	Beatty,
	Weems,	Hawkins	Tyler,	Chamberlaine,	
	Smallwood,	Moale,	Contee,	T. Wright,	

For the N E G A T I V E.

Messieurs {	Gresham,	Mackall,	Richardson,	Baxter,	Earle,
	Buchanan,	Gale,	Risteau,	Paca,	Luckett,
	Johnson,	Adams,	Deye,	Thomas,	Hagar,
	Chase,				

Sent to the Upper House by Mr. Beall and Mr. Contee.

A Bill, entitled, *An Act to empower Elizabeth Williams, Administratrix of George Williams, with the Will annexed, to make and execute the Conveyances therein mentioned*, was read a First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. So. Wright and Mr. Moale.

Mr. Moale brings in and delivers to Mr. Speaker, a Bill, entitled, *An Act to levy on the taxable Inhabitants of Baltimore County, the Quantity of Three Hundred Thousand Pounds of Tobacco, for finishing and completing the Court-House and Prison of the said County*: Which was read the First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. Deye and Mr. Risteau.

Mr. Hall from the Conference, delivers to Mr. Speaker the following Paper.

THO' the very indeterminate Manner, in which you have mentioned the Clergy, affords us no Assistance in our Conjectures what may really be your Sentiments in respect of their Provision, yet as you have been pleased to suggest that our Meaning is not understood, we shall proceed to explain it, as fully as we can.

By the Bill now under Consideration, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*, a general Alternative is extended to all Persons, whether Makers of Tobacco, or not, to pay for every Taxable chargeable with the Clergy's Dues, 30<sup>th</sup> of Tobacco, or Four Shillings. You have already remarked, that this Alternative was in a former Session agreed to by both Houses. We have informed you the Governor had declared in a Message, of which we delivered you an exact Copy, that he would dissent to the aforesaid depending Bill, if the Alternative proposed by it be extended without Limitation to the Clergy. We therefore proposed the Expedient, that in all the Parishes, on the Death or Removal of the present Incumbents, the Alternative should take Place; and observed, that in the Course of a few Years the Design would be accomplished; but if the Regulation should be deferred, the Prospect of a general uniform Establishment would be more remote. The Alternative we meant, and thought we had most clearly explained, is the aforesaid Alternative abovementioned, and contained in the Bill now depending, entitled, *An Act for amending*



*amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*; and as the Regulation was to be thus established by the Bill when passed into a Law, we also could not but mean, that the Regulation should continue as long as the Law establishing it should continue. In Regard to the Clergy's Dues, as you are not inclined to continue generally the Regulation of the late Inspection Act, the Matter stands thus under our several Propositions; they may be left out of the Bill entirely, or only as to the Planters, and be subject to be discharged in Money, after the Rate of 3/9 each Taxable by the Farmer. If entirely left out of the Bill, they will be payable as they now are, and the Condition of the Planters will not be altered. If subject to be discharged in Money by the Farmers, this Provision will very much secure them from the Oppression to which they may be exposed, if left to make a Composition in Money for the 40 per Poll; for when Men are liable to be called upon for what they have not, they must be under great Disadvantage in making a Contract to pay in what they have; or, lastly, the present Clergy already inducted may be paid according to the late Inspection Act, and immediately on the Death or Removal of any of these Ministers, the People, as well Planters as others, shall have it in their Option to pay for each Taxable 30 lb of Tobacco per Poll, or Four Shillings, which is the Alternative proposed by the Bill. If this Provision be established, the Ministers now inducted will have no Reason to complain of Hardship or Breach of Confidence, and their Successors will be fully apprised before their Induction what they are to depend upon.

Experience has proved, that when the Settlement of Officers Fees has been the Object, Disputes have arisen; but Experience has proved too, that from the Year 1747 to 1770, the Difficulties on this Subject have not been so great but Means have been found to obviate them. We presume, the Two Houses, in the Year 1745, bestowed due Attention on the Business they undertook; but we can't imagine that afterwards, in the Year 1747, the Legislature, well acquainted as they must necessarily have been with the Merits of the Bill of 1745, bestowed less Attention, and had less Discernment or Experience than their Predecessors, or that the Legislatures, who at several Periods continued the Act of 1747, and were fully apprised of its Effects, were negligent of the publick Welfare, and inattentive to their Duty. Why a Bill, agreed upon by the Two Houses in 1745, and dissented to by a Governor, whatever might be the Motive of his Conduct, should be esteemed of higher Authority than a subsequent Law, repeatedly continued, as we have not hinted, so it is not our Province to explain. No Detail, how minute soever, can invalidate the Fact, that the old Table of Fees received the frequent Sanctions we have referred to, and we must think that no Argument or Illustration, after the Repetition of so many solemn Sanctions, can be necessary or proper, to evince the Opinion of the Legislature to have long been, that the old Table of Fees, as it stood when the late Inspection Act fell, was well adapted to its Purposes. By what other Criterion can we so safely judge of the Opinion and Sentiments of Law-makers, as by the Laws they themselves have ordained? What might be the Intention of the Lower House in 1769, when they continued the Inspection Act, we were not informed, for no such Intention as you have intimated was declared or notified to us; and diffusive as you may suppose the Proof to have been, of your Intention to reform Abuses or reduce Exorbitancy, we suspected none other than what was inferred from the Supplemental Bill to the Inspection Act, sent to us in the same Session; by which, according to our Recollection, the Alternative was proposed,

By the Scheme of the Bill of 1745, the Commissary-General was to charge no Fees when the Services should be performed by the Deputies; but it was no Part of it that there should be an Enlargement of the Jurisdiction of the Deputies from £. 50 to £. 150. The Inspection Act made no Provision against the Charge of the Commissary-General in the above Instance, but enlarged the Jurisdiction of the Deputies to the Extent of £. 150. No Argument can be drawn from the rejected Bill to prove a Charge under the Act of 1747, to be an Abuse; but the rejected Bill may be material in another View; it shews what was the Construction of, and the Usage under the Act of 1715, and the Provision being omitted in the Inspection Act, shews what the Legislature in 1747 intended should be the Operation of this Act; for it appears by the Journals, that the Assembly in 1747 had the Bill of 1745 under their Consideration.

Publick Offices were doubtless erected for the Benefit of the Community, and for the same Purpose are Emoluments given to support them. We have not intimated that Deputies were appointed with the Intention of encreasing the Expence, on the contrary, we have said, that they were introduced for the Ease of the People, and we may add, to lessen the Charge they were liable to before the Act of 1715; which Act, though it did not deprive the Commissary-General of his Fees, except in the Case of Pauper Estates, consulted the Convenience of those to whom an Option was given to transact Business with the Commissary-General or his Deputy. The Commissary-General, before the Act of 1715, charged his Fees on every Administration: By this Act, if the Estate be so small as that the Inventory of it shall not amount to £. 10 in Money, there shall be paid to the Deputy, for granting Letters of Administration, &c. the Sum of 50 lb of Tobacco, and no more; and in every such Case the Commissary-General shall have no Fees. So far, and no farther, is the Commissary-General restrained by the Act of 1715, and the Usage or Practice has invariably corresponded with this Restriction. By the late Inspection Act the Fees were expressly given to the Commissary-General for every Letter of Administration, for every Bond, for every Oath, &c. and the Generality of the Expression is only qualified in Respect of Pauper Estates. That there should be an Inclination to abolish these and other Fees, we do not wonder, and apprehend that the Reduction of Income has rather been the Design than the Correction of Abuse. We are most certainly assured the Interest of the Commissary-General would not be so little consulted, by an Acceptance of what you proposed, that



that it would reduce his Income below the Regard of a Gentleman. If the double Charge, as you call it, should be disputed, what would be the Decision, or whether the Commissary-General would think proper to bring his Suit on a *Quantum Meruit*, or on the Testamentary or Administration Bond of the Party, or in any other Manner, we can't undertake to say; but presume you will agree with us in Opinion, that if no new Regulation of the Fees should be established, the Pauper Estates, instead of £. 30, as settled by the late Inspection Act, will only be £. 10; and the Jurisdiction of the Deputy Commissaries will not exceed £. 50, instead of being extended to £. 150, according to the Enlargement of it by the Inspection Act, and that it would be for the Ease and Convenience of the People, Pauper Estates should be £. 30, and the Jurisdiction of the Deputy Commissaries extended to £. 150. Do you chuse that the Regulation of Fees proposed by the Bill of 1745, which you have mentioned in Terms of so much Approbation, should now be established? Be pleased to declare explicitly. We are willing to adopt that Regulation. Or do you mean to contend for the Reduction in the Article of the double Charge, as you call it, upon the Authority of the Bill of 1745, and your Persuasion that the Framers of it were particularly attentive to, and careful of, the publick Convenience, and depart from it in the other Respects? If you do, all Prospect of an Accommodation is at an End. Should it really appear that there have been improper Charges for recording, we can only repeat, what we have already expressly declared, that we are willing such Charges may be prevented in future.

Which was read.

*The House adjourns till To-morrow Morning Half after 8 o'Clock.*

## T H U R S D A Y, November 21st, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

Mr. Hall brings in, and delivers to Mr. Speaker the following Report:

By the COMMITTEE appointed to enquire into the Truth of the Facts contained in the Petition of George Frazier Hawkins, surviving Executor of John Stone Hawkins, deceased.

IN Obedience to the Order of the Honourable House; your Committee have enquired into the Facts aforesaid, and do find, that the said John Stone Hawkins, by his last Will and Testament, dated 25th Day of November, Seventeen Hundred and Sixty-three, devised Part of his real Estate to be sold for Payment of Debts, and all the Remainder of his Lands or real Estate he gave to his Daughter *Susanna Priscilla* in Tail, with divers Remainders over, and thereby appointed the Petitioner and a certain *George Fraser*, since deceased, his Executors. That the said *Susanna Priscilla* is still living, a Minor under the Age of Twelve Years. And your Committee further find, that by the last Settlement made with the Commissary-General; (including an Allowance of One Thousand Pounds *Maryland* Currency for Lands sold) it appears that there is a Balance due to the said *George Frazier Hawkins*, Executor as aforesaid, of Fourteen Hundred and Sixty-six Pounds Nineteen Shillings and Seven-pence Gold Currency; and your Committee have examined the said Settlement, and find it right, except an Error of a few Shillings in casting up, which reduces said Balance to Fourteen Hundred and Sixty-six Pounds Three Shillings and Five-pence current Money aforesaid.

It does not appear to your Committee that there is any other Estate of the said *John Stone Hawkins* liable to Payment of Debts, except the Land mentioned in the said Petition.

All which is submitted to the Consideration of the honourable House.

*Signed per Order,*

JOHN C. JONES, Cl. Com.

Which was read; and the Petition of *George Frazier Hawkins* was read and granted; and Leave given to the Petitioner to bring in a Bill pursuant to the Prayer of the said Petition.

Mr. Smallwood, Mr. Gale, and Mr. Beatty, have Leave of Absence.

*Daniel Dulany*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act to levy on the taxable Inhabitants of Baltimore County, the Quantity of Three Hundred Thousand Pounds of Tobacco, for finishing and compleating the Court-House and Prison of the said County.*

And, a Bill, entitled, *An Act to empower Elizabeth Williams, Administratrix of George Williams, with the Will annexed, to make and execute the Conveyances therein mentioned; severally endorsed:*

“By the Upper House of Assembly, Nov. 20, 1771: Read the First Time and ordered to lie on the Table.”

*Signed by Order,*

U. SCOTT, Cl. Up. Ho.”

“By the Upper House of Assembly, Nov. 21, 1771: Read the Second Time and will pass.”

*Signed by Order,*

U. SCOTT, Cl. Up. Ho.”

Which Bills were read here, and passed for engrossing.

Also the Bill, entitled, *An Act for amending and declaring the Law in the Cases therein mentioned; thus endorsed: “By the Upper House of Assembly, November 20th, 1771: Read the First Time and ordered to lie on the Table.*

*Signed by Order,*

U. SCOTT, Cl. Up. Ho.”

“By the Upper House of Assembly, November 21st, 1771: Read the Second Time and will pass with the following Amendments, viz. Leave out the Word “impleaded” in the 17th

Q

“Line



"Line of the 7th Page, and insert the Words "affected by such Division," and leave out the  
"last enacting Clause in the same Page.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

And a Petition of *John Stuart* and *Duncan Campbell*, praying that an Act may pass to enable *Sarah Stuart*, Widow and Executrix of *Alexander Stuart*, late of *Baltimore County*, deceased, to sell certain Lots in the said Petition mentioned, for the Payment of the Debts of the said *Alexander Stuart*.

*John Ridout*, Esq; from the Upper House, delivers to Mr. Speaker the Bill, entitled, An Additional Supplementary Act to the Act, entitled, *An Act for the Establishment of religious Worship in this Province according to the Church of England, and for the Maintenance of Ministers*; thus endorsed: "By the Upper House of Assembly, November 20th, 1771: Read the First Time  
"and ordered to lie on the Table.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, November 21st, 1771: Read the Second Time and will  
"pass with the Amendment annexed.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Let the Proviso beginning at the Third Line from the Bottom of the Fifth Page be amended so as to be to the following Effect, viz. "And provided also, that if any such beneficed Minister shall not appear before the Commissioners aforesaid, but shall wilfully and contumaciously make Default, after personal Notice of the Time and Place of such Enquiry, or make such Default after a Note, under the Hand of the said Commissioners, specifying the Time and Place of such Enquiry, shall have been set up and affixed at his Parish Church Door One Month at the least before such Enquiry, then, and in every such Case, the Commissioners aforesaid shall proceed in their Enquiry, in the same Manner as in the Case of the personal Appearance before them of such Minister."

And a Petition of *Alexander Symmer*, of *Prince-George's County*, praying an Act to pass for his Relief, so far as to secure his Effects and Person from Arrests and Law Suits, for a Term not exceeding Ten Years, in Order to enable him to support himself and Family, consisting of Five young Children.

The Address to his Excellency was read a Second Time, and the Question was put, that the House agree to the same? Resolved in the Affirmative.

#### For the A F F I R M A T I V E.

Messieurs	Buchanan,	Smallwood,	Risteau,	Hall,	So. Wright,
	Ringgold,	Harrison,	Deye,	Paca,	Earle,
	Worthington,	Ware,	Ward,	Tilghman,	Lockett,
	Johnson,	Hawkins,	Beall,	Thomas,	Wootton,
	Chase,	Adams,	Tyler,	Chamberlaine,	Beatty,
	Mackall,	Richardson,	Contee,	T. Wright,	Hagar.
	Weems,	Moale,			

#### For the N E G A T I V E.

Messieurs Gresham, Hammond, Baxter,

ORDERED, That the said Address be engrossed.

*The House adjourns till To-morrow Morning 9 o'Clock.*

#### F R I D A Y, November 22d, 1771.

THE House met. All Members present as on Yesterday, except Mr. Gale.

The Proceedings of Yesterday were read.

Mr. Grahame appeared in the House.

The Bill, entitled, *An Act for amending and declaring the Law in the Cases therein mentioned*, was read with the Amendments proposed by the Upper House, and the Amendments were agreed to, and the Bill passed for engrossing.

The Bill, entitled, An Additional Supplementary Act to the Act, entitled, *An Act for the Establishment of religious Worship in this Province according to the Church of England, and for the Maintenance of Ministers*, was read, and the Amendment proposed by the Upper House was read and agreed to, and the Bill passed for engrossing.

The Petition of the Trustees for the Poor in *Anne-Arundel County* was read a Second Time; and, on Motion, Leave given to bring in a Bill relating to the Levy and Poor of *Anne-Arundel County*.

ORDERED, That Mr. Chase and Mr. Worthington do prepare and bring in the same.

Mr. Chase brings in, and delivers to Mr. Speaker the said Bill: Which was read the First Time and ordered to lie on the Table.

A Bill, entitled, *An Act to empower Jane Ridgely, Executrix of Nicholas Greenbury Ridgely, late of Anne-Arundel County, deceased, to convey the Land therein mentioned*, was read the First and Second Time, by an especial Order, passed, and sent to the Upper House by Mr. Wootton and Mr. Tyler.



A Bill, entitled, *An Act for the directing the Sale of the Lands of John Stone Hawkins, late of Prince-George's County, deceased, for the Payment of the Debts of the said John Stone Hawkins*, was read the First and Second Time, by an especial Order, passed, and sent to the Upper House, with the engrossed Bills N<sup>o</sup>. 29, 30, by Mr. Moale and Mr. Contee.

The Petition of *John Steuart and Duncan Campbell* was read.

ORDERED, That the same be referred to the Consideration of a Committee, and that they do examine the Matter thereof, and report the same as it shall appear to them to the House; and Mr. Moale, Mr. Rifeau, Mr. Deye, and Mr. Johnson, are appointed a Committee accordingly; and they have Power to send for Persons, Papers and Records.

The Petition of *Alexander Symmer* was read the First and Second Time and rejected.

*Benedict Calvert*, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bills N<sup>o</sup>. 29, 30, severally endorsed: "By the Upper House of Assembly, November 22d, 1771: The engrossed Bill, whereof this is the Original, read and assented to.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

And the Bill, entitled, *An Act to empower Jane Ridgely, Executrix of Nicholas Greenberry Ridgely, late of Anne-Arundel County, deceased, to convey the Land therein mentioned*; thus endorsed: "By the Upper House of Assembly, November 22d, 1771: Read the First and Second Time, by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which last mentioned Bill was read here and passed for engrossing.

Mr. Paca brings in, and delivers to Mr. Speaker the following engrossed Address:

TO HIS EXCELLENCY

ROBERT EDEN, Esq; GOVERNOR of MARYLAND,

The humble ADDRESS of the House of DELEGATES.

*May it please your Excellency,*

OUR indispenfible Duty to check the Exercise of such Powers as are incompatible with the permanent Security of Property and the constitutional Liberty of the Subject, has constrained us, in the Course of this Session, to take into our Consideration your Excellency's Proclamation of the 26th Day of November last, relative to Officers Fees, and the Instruction of the 24th Day of the same Month, under the Great Seal, ascertaining the Fees of the Land-Office; and on the most sedate Reflection, we have come into several Resolutions, Copies of which we beg Leave now to lay before you.

The like Proclamation published in the Year 1733, agitated and disjointed this Province till the Year 1747, and the Evils which were thereby occasioned ought strongly to have dissuaded from any Attempt again to exercise such Power. When, from some Proceedings in the Land-Office, in the Time of the last Assembly, the late Lower House were apprehensive that Government entertained a Design, in Case the several Branches of the Legislature should not agree in the Regulation of Officers Fees, to attempt establishing them by Proclamation, they, in an Address to your Excellency, asserted "the Proprietary has no Right, Sir, either by himself or with the Advice of his Council, to establish or regulate the Fees of Office, and could we persuade ourselves you could possibly entertain a different Opinion, we should be bold to tell your Excellency, that the People of this Province ever will oppose the Usurpation of such a Right;" to which your Excellency was pleased to answer, in your Message of the 20th Day of November, "that his Lordship's Authority had not yet interposed in the Regulation of the Fees of Officers, nor had you any Reason to imagine that it would interpose in such a Manner as to justify a regular Opposition to it." From whence; and your Excellency's Declaration in the same Message, "that it had been the Object of your anxious Attention, and was your very earnest Wish, to cultivate an amicable Understanding with the Representatives of the People of Maryland, with the Assurance, that you should, on every Occasion, pay a due Regard to their Rights, and that you should never countenance the illegal Exactions of any Officers, nor submit to any Usurpation which might essentially endanger that constitutional Balance of counteracting Powers, so necessary to the Protection of the People and the Preference of the publick Peace." The good People of this Province, although they might commend the Solicitude of their Delegates, had great Reason to imagine their Apprehensions were ill grounded, especially, when it was remembered, that your Excellency, in your First Speech to the late Assembly, was pleased to express that you were sensible you should be judged of by your Actions, and not by any Assurances you might then give the Two Houses of your future Conduct; to which Test you most readily submitted. But after the Sense of the late House, so plainly expressed, and within a shorter Time after your Excellency's last Message to that House than the Resolution could well be formed, your Excellency's Proclamations were distributed and published, altogether, as we apprehend, unconstitutional in the Matter, and shadowed in the Manner with the assigned Reason to prevent Extortion by the Officers, in Imitation of the Practice of arbitrary Kings, who in their Proclamations, which have been declared illegal, generally covered their Designs with the specious Pretence of publick Good.

Your Excellency in your said Message having been pleased to tell the late Lower House, "His Lordship has, I think, the clearest Right to dispose of his real Estate upon such Terms as he may think proper; to direct the formal Observances in making Titles to his Grants, and to

"settle



"settle and regulate the Rewards his Officers in this Department may demand and receive," and your Excellency having been pleased to pass a separate Instrument under the Great Seal, avowedly for the Purpose of ascertaining the Fees of the Land-Office, and in the Proclamation respecting Officers Fees in general, having published that the Fees of the Land-Office were under a separate Regulation; a Question of momentous Concern to the People of this Province may arise, whether the Land-Office is a publick or private Office? The professed Intention of the Crown, in the Grant of this Province to his Lordship's noble Ancestor, was "for extending the Christian Religion, and also the Territories of the *English* Empire." And though his Lordship might dispose of his Lands upon such reasonable Terms as he might think proper, and direct formal Observances in making Titles to his Grants; so as to further the Increase and Settlement of the Province, yet we cannot but be of Opinion, that after the Publication of the Conditions of Plantations, that which before was uncertain and to be governed by what was reasonable having Regard to the Motives and Ends of the Grant, was thereby ascertained, and a permanent Interest vested in the Subject, in the Conditions and Terms thus published, which cannot be rescinded by the Proprietary at his Pleasure. If the Land-Office was considered as a mere private Office, we do not see with what Propriety the Law in the Year 1716 could pass, to burthen the Publick for transcribing and repairing the Records in that Office, or to require that Bond with Security should be given for Preservation of the Records, and for the Supply of Materials to make up the Records of after Transactions, therein providing, that for every Breach, the Person particularly injured thereby might sue such Bond for recovering Damages; and that the Lower House of Assembly, or the Provincial Court, might cause the Bond to be put in Suit for the securing the Publick from all Charges and Expences that should be necessary for the putting and preserving the Records in Repair; and equally improper must have been the Supplementary Act passed in 1742. The Land-Office, Sir, is the publick Repository of the First and most necessary Evidence of every Man's Title to his real Estate in this Province; the whole Records have been made up, so far as we can trace, at the Expence of the People. These Records have been considered as publick Records, kept under Securities appointed by Acts of Assembly; and Office Copies are constantly received and admitted as Evidence by the Courts of Justice. It very much concerns the Land-holders in this Province, to know by what Tenure they hold their Estates; if they have no Right to recur to the Land-Office Records and have Copies but at the Will of his Lordship, or on the Terms his Lordship may be pleased to allow them, they indeed are in all Cases, where Copies are necessary to evidence their Titles, only Tenants at the Will of the Proprietor, and those necessary Copies may be withheld till the Proprietor receives the Profit of another Sale.

The necessary Construction of the Proclamation with Regard to the other Officers, is in our Apprehension, an affirmative Allowance to receive the Quantums regulated by the late Inspection Law. When your Excellency authorised the Registers of the Land-Office to receive the respective Quantums enumerated in your Instruction to them, and which were allowed and limited by the late Regulation, without an express Prohibition against receiving more; we fairly presume, that you meant an Allowance of so much, and an implied Prohibition to take more; for we cannot suppose you intended those Officers should be justified in receiving so much, and as much more as they could extort. And when your Excellency by your Proclamation prohibited the Officers from taking other or greater Fees than limited and allowed by the late Regulation, you as certainly must have meant a Prohibition against taking more, and an implied Allowance of so much; besides, so much by your Proclamation is not Extortion, and therefore on this Supposition may be demanded and taken. This Consequence results from the very Nature of Extortion, which is "taking of Money by any Officer by Colour of his Office, either where none at all is due, or not so much is due, or where it is not yet due." From this Definition of Extortion it is obvious, that what is due must be settled, before the Excessiveness of the Fee actually received can be adjudged Extortion; and most certainly when settled may be legally demanded and taken by the Officer; and the Proposition is equally plain, that what is due upon a Service done cannot be ascertained without the Consequence of ascertaining what would be Extortion in that particular Case; and, *vice versa*, what would be Extortion in any Instance, cannot be ascertained without previously ascertaining what is due. But your Excellency's Proclamation expressly adopts the expired Regulation as the Criterion of Extortion, and therefore evinces, beyond a Possibility of Doubt, an implied Allowance to charge to the Extent of that Regulation.

On recurring to the late Inspection Law which limited the Officers Fees, we find that the Words of that Act are, "That no Officer or Officers, hereafter mentioned in this present Act, their Ministers, Servants or Deputies, by Reason or Colour of his or their Office or Offices, shall have, receive, or take, of any Person or Persons, directly or indirectly, any other or greater Fees which shall become due, after the last Day of November in the Year 1763, than by this Act are hereafter limited and allowed to the several Officers hereafter mentioned:" Which Expressions every Body knows have always been construed, an implied affirmative Allowance of the Fees; and when your Excellency has been pleased to issue a Proclamation, in the very same Words, we cannot but conclude, that you must have had the same Idea affixed to them, as was universally affixed to those Words, in the Act from whence they were copied. But even should we be mistaken in our Conjectures, that you intended to restrain the Registers of the Land-Office, from charging more than allowed to them by your Excellency's Regulation; or that you intended to give an implied affirmative Allowance to the other Officers to charge to the Extent of the late Regulation under the Inspection Law; your Excellency certainly thought, when you prohibited the charging any other or greater Fees, than by



by the late Inspection Law were limited and allowed, under Pain of your Displeasure, that greater Fees were excessive; and from your own Reasoning in your Message before mentioned, "a Right to determine the Charges of Fees excessive, implies the Right to settle the exact Compensation due for the Services performed; because without the Standard, what Fees are adequate, what are more or less than the just Proportion, cannot be ascertained." Or if greater Fees are not excessive, you have attempted by your Proclamation, illegally to restrain the Officers from charging so much as they might rightfully charge, and thereby broke in upon the Right of the Subject, and "to which every Subject (whether in or out of Office) is as well entitled as any," and the heavy Pain of your Displeasure may be incurred by those who commit no Offence.

Having, as we hope, evinced to your Excellency's entire Satisfaction, that the Land-Office is not a mere private, but a publick Office, in which the Subjects here have a fixed and legal Interest; and stripping your Excellency's Proclamation of the ostensible Reason for issuing it, that it stands in its Intention and Construction as an implied affirmative Allowance for the charging of Officers Fees agreeable to the late Regulation. Permit us, Sir, to lay before you some of the Grounds and Reasons which induce us to think your Excellency has attempted to exercise the Power which can be constitutionally exercised only by the Legislature. By the common Law, the Officers of Justice were not entitled to any Reward from the Subject for their Services; they were originally paid by the King out of the Crown Revenues. In Process of Time Statutes were made for the Establishment and Regulation of Fees: But in our Researches we do not find a single Instance of any Proclamation for levying the Salaries or ascertaining the Fees of Officers.

Property, in the very Nature of it, is an exclusive Right: Under this Idea our happy Constitution, anterior to any Statute extant, equitably and justly provided, that the People only should be capable of giving their own Property; and therefore no Tax could be imposed upon them but with their own Consent, given personally or by their Representatives. This Principle of the *English* Constitution hath been declared, confirmed and secured by divers Statutes; One of them, that of the 34th of *Edward the First*, *De Tallagio non concedendo*, permit us to mention. On which Statute *Lord Coke*, in his Second Institute, 532, 3, 4, observes, "That *Tallagium* is a general Word, and doth include all Subsidies, Taxes, Tenths, Fifteenths, Impositions and other Burthens, or charge put or set upon any Man: That within this Act are all new Offices erected with new Fees, or old Offices with new Fees, for that is a Tallage put upon the Subject, which cannot be done without common Assent by Act of Parliament: That the Words of this Act are general, so as all Tallages, Burthens or Charges put upon the Subject by the King, either to or for the King, or to or for any Subject by the King's Letters Patents, or other Commandment or Order, is prohibited by this Act, unless it be by common Consent of Parliament: That the Words are in the Disjunctive (*ponatur seu levetur*) so as if it be set by the King, although it be not levied by him, but by a Subject, as it was in the Cases above said, it is within the Purview of this Statute." We find nothing to impeach the Authority of *Lord Coke*; but on the contrary, he is cited with Approbation by the late Writers upon that Subject. From these Authorities we think ourselves well justified in asserting that the Fees of Office are a Tax upon the Subject. The good People of this Province are undoubtedly entitled, as *English* Subjects, to all the Rights, Liberties, Privileges and Immunities of his Majesty's liege Subjects, born and residing within his Kingdom of *England*, and therefore need not recur to the royal Charter of this Province, for the Establishment of their Rights, Liberties and Privileges: But had your Excellency and the Council adverted to it, we apprehend the 7th Section of the Charter, which grants to *Cæcilius*, Baron of *Baltimore*, and his Heirs, for the good and happy Government of this Province, free, full and absolute Power "to ordain, make and enact Laws of what Kind soever, according to their sound Discretion, whether relating to the publick State of the Province or the private Utility of Individuals, of and with the Advice, Assent and Approbation of the Freemen of the same Province, or of the greater Part of them, or of their Delegates or Deputies, whom we will shall be called together for the framing of Laws when and as often as Need shall require, by the aforesaid now Baron of *Baltimore* and his Heirs, and in the Form, &c." would have most clearly pointed out a Necessity for the Consent of the Delegates to this, or any other Legislative Act: And the Eighth Section, which follows, "And forasmuch as in the Government of so great a Province, sudden Accidents may frequently happen, to which it will be necessary to apply a Remedy, before the Freeholders of the said Province, their Delegates or Deputies, can be called together, for the framing of Laws; neither will it be fit, that so great a Number of People should immediately, on such emergent Occasion, be called together: We therefore, for the better Government of so great a Province, do will and ordain, and by these Presents for us, our Heirs and Successors, do grant unto the said now Baron of *Baltimore*, and to his Heirs, that the aforesaid now Baron of *Baltimore*, and his Heirs, by themselves, or by their Magistrates and Officers thereunto duly to be constituted as aforesaid, may, and can make and constitute fit and wholesome Ordinances, from Time to Time to be kept and observed, within the Province aforesaid, as well for the Conservation of the Peace, as for the better Government of the People inhabiting therein, and publickly to notify the same to all Persons whom the same in any wise do or may affect. Which Ordinances we will to be inviolably observed within the said Province, under the Pains to be expressed in the same; so that the said Ordinances be consonant to Reason, and be not repugnant nor contrary, but (so far as conveniently may be done) agreeable to the Laws, Statutes or Rights of our Kingdom of *England*; and so that the same Ordinances, do not in any Sort extend to oblige, bind, charge, or take away, the Right or Interest of any Person or Persons, of, or in Member, Life, Freehold,



"Goods or Chattels," would most certainly, as it was designed, have had the Force of a Prohibition against this Exercise of an unwarranted Power.

We find in the Lower House Journal of May Session 1692, the following Entries: "Voted by the House, *Nemine contradicente*, that it is the undoubted Right of the Freemen of this Province, not to have any Fees imposed upon them but by the Consent of the Freemen in a General Assembly.

"Mr. Speaker, with the rest of the Members appointed, go up to the Council-Chamber upon the Conference appointed Saturday last, where they were admitted.

"Mr. Speaker acquaints his Excellency, that he was appointed by the House, with several other Gentlemen, to attend their Honours to give them Satisfaction in Relation to the Message sent them on Saturday, and as to the greatest Part of the said Message he was ready to comply with their Honours therein: But as to that Part relating to Officers Fees, that the House had given him a Charge to acquaint their Honours, that they had fully searched into that Matter, and understanding all Things pertinent to that Question, have unanimously declared, that it is the undoubted Right of the Freemen of this Province, that no Officers Fees ought to be imposed upon them, but by the Consent of the Representatives in an Assembly, and that this Liberty was established and ascertained by several Acts of Parliament, the Authority of which is so great, as to receive no Answer but by Repeal of the said Statutes, and produced the same with several other Authorities; to which the Governor's Answer was, that his Instructions from his Majesty was to *lessen* and *moderate* the Exorbitancy of them, and not to *settle* them; to which Mr. Speaker replied, that they were thankful to his Majesty for the same, but withal desired, that no Fees might be *lessened* or *advanced*, but by the Consent of the Assembly, to which the Governor agreed." And among the Acts passed that Session, we find one, entitled, "An Act for Limitation of Officers Fees;" and one, entitled, "An Act for limiting the County Clerks Fees within this Province," which regulated and established the Fees of Officers. These solemn and deliberate Proceedings, was the Case otherwise doubtful, would, we apprehend, be decisive. Permit us to entreat your Excellency, to review this unconstitutional Assumption of Power, and consider its pernicious Consequences. Applications to the publick Offices are not of *Choice*, but *Necessity*. Redress cannot be had for the smallest or most atrocious Injuries, but in the Courts of Justice: And as surely as that Necessity does exist, and a binding Force in the Proclamation or the Regulation of Fees in the Land-Office be admitted, so certainly must the Fees thereby established be paid, in Order to obtain Redress. In the Sentiments of a much approved and admired Writer, suppose the Fees imposed by this Proclamation, could be paid by the good People of this Province, with the utmost Ease, and that they were the most exactly proportioned to the Value of the Officers Services, yet even in such a supposed Case, this Proclamation ought to be regarded with Abhorrence; for who are a free People? Not *those* over whom Government is reasonably and equitably exercised, but *those* who live under a Government so constitutionally checked and controuled, that proper Provision is made against its being *otherwise exercised*. This Act of Power is founded on the Destruction of this constitutional Security; if Prerogative may rightfully regulate the Fees agreeable to the late Inspection Law, it has a *Right* to fix any other Quantums; if it has a *Right* to regulate to one Penny, it has a *Right* to regulate to a Million; for where does its Right stop? At any given Point? To attempt to limit its Right, after granting it to exist at all, is as contrary to Reason, as granting it to exist at all is contrary to Justice: If it has any Right to tax us, then whether our own Money shall continue in our own Pockets, or not, depends no longer on us, but on the Prerogative; there is Nothing which we can call our own; and in the Words of a Light and Ornament of the present Age, "My Position is this—I repeat it again—I will maintain it to my last Hour—Taxation and Representation are inseparable—This Position is founded on the Laws of Nature; it is more, it is itself an eternal Law of Nature; for what ever is a Man's own, is absolutely his own, no Man hath a Right to take it from him, without his Consent, either expressed by himself or his Representative; whoever attempts to do it, attempts an *Injury*; whoever does it, commits a *Robbery*: He throws down the Distinction between Liberty and Slavery." "The Forefathers of the *Americans* did not leave their native Country, and subject themselves to every Danger and Distress, to be reduced to a State of Slavery. They did not give up their Rights; for should the *present Power* continue, there is Nothing which they can call their own." Or in the Words of Mr. Locke, "*What Property have they in that which another may by Right take when he pleases, to himself?*"

When we reflect, Sir, that you came to this Government with every Motive to wish the Prosperity of the Province; when we reflect, that you have omitted no Opportunity of declaring an Attachment to the Constitution, and a Regard for the Rights and Liberties of the Inhabitants; and that you have repeatedly expressed a Willingness to concur in Regulations tending to advance this Country, we are desirous of indulging the fond Hope, that you have not the least Inclination to unite the *Legislative* and *Executive* Authorities, "the Will to ordain and the Power to enforce it in the *same Person*, as thereby a Tyranny would be established;" and though your Excellency, with the Advice of his Lordship's Council of State, issued the Proclamation, and also passed the Instrument under the Great Seal establishing the Fees in the Land-Office, after having been put on your Guard by the late Lower House, who had strongly objected against a Continuance of the late Regulation of Fees, not only because it was in some Particulars exorbitant, but for that, too many great Abuses had been committed by the Officers in their Charges, which could be palliated only from the Doubtfulness of the Expression in the Tables, and therefore submitted to the Loss of an incontrovertibly useful Regulation of the Staple of Tobacco; and after too, your Excellency in your said Message told the late Lower House, that

"so



"so far as you might be concerned in his Lordship's Authority interposing in any Regulation of the Fees of Officers, you should take good Care to act on mature Consideration, and that what you should judge to be right and just, would be the only Dictate by which you should be determined;" yet we cannot but be apprehensive that you issued that Proclamation, and pass that other Instrument under the Great Seal, on the Advice of some of those, whose Interest in the Fees thus attempted to be illegally established, ought to have excluded them from your Excellency's Confidence, in all Things relative to the Fees of Office. We therefore earnestly entreat your Excellency to quiet the Minds of the good People of this Province, by speedily withdrawing the said Proclamation, as well as the said other instrument establishing Fees in the Land-Office; and that you will be pleased to make known to us the Names of those ill Advisers, who have daringly presumed thus to tread on the invaluable Rights of the Freemen of Maryland.

On reading whereof, the Question was put, That the House do assent to the same? Resolved in the Affirmative.

## For the A F F I R M A T I V E.

Messieurs	Buchanan,	Smallwood,	Risteau,	Hall,	So. Wright,
	Ringgold,	Harrison,	Deye,	Paca,	Earle,
	Johnson,	Ware,	Ward,	Tilghman,	Luckett,
	Chase,	Adams,	Beall,	Thomas,	Wootton,
	Mackall,	Richardson,	Tyler,	Chamberlaine,	Beatty,
	Weems,	Moale,	Contee,	T. Wright,	Hagar.
Grahame,					

## For the N E G A T I V E.

Messieurs Gresham, Hammond, Baxter.

Daniel of Saint Thomas Jenifer, Esq; from the Upper House, delivers to Mr. Speaker, a Bill; entitled, *An Act for the directing the Sale of the Lands of John Stone Hawkins, late of Prince George's County, deceased, for the Payment of the Debts of the said John Stone Hawkins;* thus endorsed: "By the Upper House of Assembly, Nov. 22, 1771: Read the First and Second Time by an especial Order, and will pass with the Amendments annexed.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

"After the Word 'several' in the 2d Line of the Fourth Page, insert the Word 'Claims,' and strike out the Word 'Claims' in the Third Line of the same Page. After the Word 'Hawkins' in the last Line of the last Page, add as follows, viz. 'Saying to the said Heirs of John Stone Hawkins the Liberty of shewing Cause, if any the said Heirs have, or can shew to the Chancellor of this Province for the Time being, at any Time within Six Months after the said Heirs shall arrive at the Age of Twenty-one Years, why the Lands and Premises above-mentioned ought not to have been sold, as herein is directed; and upon such Cause shewn to the Satisfaction of the said Chancellor, then and in such Case this Act shall be void, any Clause, Matter or Thing herein to the contrary notwithstanding.'

Which was read; and the Amendments proposed by the Upper House were read and agreed to, and the Bill passed for engrossing.

Mr. Grahame, from the Conference, delivers to Mr. Speaker the following Paper.

THE Lower House framed the Bill, entitled, "*An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees,*" which is the Subject of the present Conference, on a comprehensive View of the Subject, and in the most adequate Manner in their unbiassed Judgment, to answer the valuable Purposes of it, which are to regulate and improve the Staple, and to facilitate and encourage Trade, for the mutual Advantage of the Planter and Merchant, whose Safety, Connection and Convenience have been equally consulted; and to regulate the Clergy's Dues, and Officers and Lawyers Fees; in which the much altered Circumstances of the Province, the very great Increase of the Profits of the Offices, many Abuses in the Charges of Fees, and the Circumstances and Numbers of the Inhabitants have been attended to, and they flatter themselves that they have been guided by the Rules of immutable Justice and the soundest Policy. A different Mode of Proceeding having in the last Session proved ineffectual to bring about an Agreement on a like Bill, they came into this Conference, proposed by the Upper House, before any particular Objections to the depending Bill were pointed out, in hopes that Reason and Argument might conciliate the Sentiments of the Two Houses. You proposed several Alterations in the Bill; some of them have been acceded to. The Points which now remain unsettled are these, viz.

- I. The Manner of putting Inspectors Bonds in Suit.
- II. Inspectors rechosen to give timely Notice, or failing thereof, to be considered as an actual Refusal.
- III. Time of closing the Inspection limited by our Bill to the 20th of August, you contend ought to be the last of July.
- IV. Penalties and Mode of Recovery.
- V. Whether the Alternative be extended to Costs of Suit.
- VI. Officers Fees, including the Time of Execution and Payment.
- VII. Clergy's Dues.

The



The Regulation of Officers Fees, as it is plainly a Matter of the greatest Importance, and must necessarily take up a great deal of Time whenever it is settled, as many Points of Difference are likely to occur in it, and it being a Matter too in which several of the Honourable the Upper House are considerably interested, and therefore fairly presumable an Object of more immediate Concern with them, was thought by the Lower House to be the Point which ought first of all to be settled; nor has the Event proved them mistaken. It is useless at this Time to go minutely through your Honours Reasoning on this Head. To our Objections against the Charge for recording Papers where the Service is not done, the extravagant Charges of the Surveyors and Examiner, and the frequent Charge of Order in the Commissary's Office, you have still reserved to yourselves to say, whether those Charges are proper or improper under the old Regulation, and from your Reasoning in Support of them, have left us little Hopes of being able to convince you of their Impropriety; and till then, your repeated Assurance, that you will not agree to any Reduction of Fees properly chargeable according to the old Table, must secure those Charges from being prevented in future. When we asserted that the Charge for recording was made where the Service was not done, we confined our Ideas to what were or were not Records in this Province; and although we have Reason to believe that Records are kept in Rolls in the Mother Country, we consider the Books, either small or large, in which the Clerks enter the Proceedings of the Courts here, to be Records of the Proceedings of our Courts, and that when the Declarations, &c. are not entered in those small or large Books, those Declarations, &c. are not recorded; and this Idea, we think, is confirmed not only by several of the Allowances in the Tables for recording, but also by the long continued Practice of recording in small or large Books in all the Offices, and by the Acts of Assembly in 1716 and 1742, by which the Secretary and other Officers are bound to find a Supply of good and sufficient Record Books necessary for entering up all Matters, &c.

The Commissary General's Charge for Services not performed by him, but which are performed by his Deputies, and for which those Deputies are paid, you strenuously support. You do not even allege there is any Degree of Justice in such Charge, but ground yourselves on your Construction of the Table and uniform Usage and Practice in making this Charge. You have been pleased to recur to the Act of 1715, and argue your Construction of that Act too in your Favour. We, on the contrary, have given our Construction, and still think it the right one. We by no Means admit that the Tables of Fees of 1747 or 1753 warranted this Charge; but, on the contrary, observe, that in most of the Tables there are Allowances for many Services without any Addition to the Article, if done by the particular Officer in whose Table such Article stands; on the whole of which the Construction must most clearly be, that the Allowance is to be to such Officer for his doing such Service: And we have opposed too against you, the evident Injustice of compelling any Man to pay twice for a Service performed but once, and have mentioned the Provision in a Bill passed both Houses in 1745, preventing this Abuse. You have brought to your Aid likewise, the solemn Sanction of the late expired Regulation, so deliberately enacted, re-enacted and continued by several Assemblies at Five different Times, to strengthen you, not only with Regard to the Commissary's double Charge, but also to evince the old Table, so loosely expressed, that not a few of the Officers themselves palliate their excessive Charges, from the Doubtfulness of the Expressions, and from whence Bills of Costs in different Offices, in like Suits and under similar Circumstances, often materially differ, is well adapted to the Purposes of it, and is proved to be so by long Experience. We have asserted, "the Fact is too notorious to be denied, that the Table of Fees under the first Inspection Law, was then adopted, and hath been since continued, not so much from the Impressions of the Propriety and just Proportion of the Reward to the Service, as from the Utility of that Bill in other Respects, and the Necessity of agreeing to an imperfect Table of Fees, or losing a Regulation of the Staple, allowed on all Hands to be very beneficial to the People."

As your Reasoning was not forcible enough to convince the Judgment of the Lower House of the Legality or Propriety of the Commissary General's double Charges, so they could not alter their Determination with Regard to them, and, unhappily, the Commissary-General's Reward, for doing nothing, must be left to be decided by those who may happen to be charged something *by him* for his doing *nothing for them*, on whose Fears possibly the Administration or Testamentary Bond, taken according to your Remark, with a very extensive Condition, how legal needs not now be considered, may forcibly operate, or by legal Determination, in which a Jury of the Country may possibly be of different Sentiments from your Honours.

Your Honours having enquired, whether we choose that the Regulation of Fees proposed by the Bill of 1745, which you have been pleased to allege has been mentioned by us in Terms of so much Approbation, should now be established, and after desiring our explicit Answer, having declared you are willing to adopt that Regulation, it seems to be implied, that you were of Opinion, the Terms you thus offered were rather more eligible by the Lower House, than to adopt the late Regulation of Fees, to which you have clearly shewn yourselves to be exceedingly attached, and to which the Lower House are so much averse and cannot agree; and yet, the Terms of this new proposed Expedient are such as we cannot imagine you had the least Expectation would be acceded to.

We should really, and without any Intention of Offence, have requested your Honours to have explained, whether you designed to propose the Regulation of Fees as agreed to in 1745, with or without any Deduction? Whether you designed an Alternative in the Payment of those Fees agreeable to the present Bill? And whether you designed the Payment should be in Tobacco only? Had we not so lately given you Trouble of spending Two Sides of Paper in making it clear to our Understanding, that your proposed Expedient relative to the Clergy's Dues is,

"that



“that the present Clergy already inducted may be paid according to the late Inspection Act, and immediately on the Death or Removal of any of these Ministers, the People, as well as Planters as others, shall have it in their Option to pay for each taxable 30 Pounds of Tobacco *per Poll*, or Four Shillings,” which could not be done but by twice inserting the Title of the Bill, and repeating most of what had come from you before concerning the Clergy. Permit us to remark, that in the Year 1745 there was no Inspection Law, Tobacco Payments were made in the Planters Tobacco Houses: Tobacco was then estimated in our Laws at Ten, and might have been, and was commonly purchased at about Eight Shillings Currency *per Hundred*: Exchange was at about £. 220 Currency for £. 100 Sterling, and the Officers Fees were by the Bill of 1745 to have been payable in Tobacco only. By the Inspection Law passed in 1747 the Debtor who paid an old Tobacco Debt in inspected Tobacco was entitled to a Reduction of One Fourth Part of the Quantity due. About One Fifth was deducted from the Secretary and Commissary General's Fees, as agreed in the Bill of 1745. About One Fourth was deducted from the Fees taken by the other Officers in 1747, and the Farmers were indulged in the Payment of Officers Fees at Twelve Shillings and Six-pence *per Hundred*. Your Honours propose that the Regulation of Fees intended by the Bill of 1745 should now be established, that is with Respect to the Secretary and Commissary General's Offices, to say nothing of the other Offices, which would be also considerably increased; you modestly propose, if we will add about 25 *per Cent.* to the late Regulation of Fees in those Offices, you will readily agree with us; we cannot doubt it, but what great Benefit is to be obtained by the Country for this enormous Addition, why the double Charge in the Commissary General's Office shall be provided against in future, but lest this might be giving up too much, the Deputy Commissary's Jurisdiction must be lessened from Estates of £. 150 to 50 Pounds, whereby the poorer People would be deprived of the Ease and Convenience of having this Business done in their own Counties, or be at the Expence and Trouble of procuring Commissions.

We presume that we need urge Nothing further to your Honours to convince you that we ought not to come into your Expedients, without an attentive Consideration of them.

The Clergy's Dues being the Point next in Consequence, permit us to remark, you have not denied the Justice of extending the Alternative to the People to pay 30 *per Poll* in Tobacco, or in Money on 32. The Governor's Message, of the Propriety of which (and wherein he seemed himself to doubt) we can say Nothing, has determined your Action, though it does not seem to have convinced your Understanding: This very Fact ought to render probable, at least to you, what we have before asserted with regard to the Weight of the Regulation of Tobacco carrying thro' the former Lower Houses that of the Officers Fees. When we see the solemn Sanction of temporary Acts are set up in Opposition to, and are expected to bear down the Principles of Justice, we shall be cautious how we adopt Expedients. A general uniform Establishment of the Clergy is truly desirable: You must be sensible with us, that the People groan under a heavy and unequal Burthen, and as you can get Nothing by acting contrarily, we hoped for your united Efforts to obtain them Relief. We are sorry that we are disappointed in those Hopes: The Clergy are too much connected with Tobacco to leave them out of the Bill, nor shall we ever take them into it so unequally on the Tobacco Makers, unless we see something more easy to them in Reversion than Four Shillings; but even were we disposed to continue the old Regulation as to the present Clergy with the Alternative of 30 *lb* of Tobacco, or Four Shillings as to the future Clergy, we do not see what should at the End of Seven Years prevent another Message to your House, intimating his Excellency's Resolution to dissent to a Continuance of such Regulation, and thereby the present Design of a general uniform Establishment of the Clergy may be entirely defeated.

What has been the Practice or Usage in bringing Suits on Inspectors Bonds for the Non-payment of Tobacco according to their Notes or Receipts, we do not very well know, and believe few Suits have been brought on such Bonds. Persons interested in Bonds taken in his Lordship's Name, have sometimes made Applications to the Governor by Petition, to assign such Bonds to bring Suits thereon. If such Applications are necessary to enable the Person interested to bring or maintain such Suit, as it should seem that the Application implies the Power of granting or rejecting the Petition, it would likewise seem as if the Governor might allow of, or prevent the Petitioner's Remedy on the Bond; as all Persons were by the Bill to be obliged to carry their Tobacco to the Inspecting Houses, and Inspectors Notes or Receipts were to have been legal Tenders, it follows as a Consequence, that the Person who thus being obliged, did carry his Tobacco to an Inspecting House, or the Person who being obliged, received an Inspector's Note or Receipt in Payment, should have it in his Power to recut to that Security he was obliged by Law to confide in, without the Leave of the Governor, and therefore the Bill intended to confer that Power.—On Non-payment of any Clergy's Dues, Officers or Lawyers Fees, Publick or County Levies, or Parochial Charges, by the 10th Day of *August* by the Bill, Money only was to be levied by Way of Execution. Your Honours First proposed to shorten the Time to the 10th of *April*, though you afterwards agreed to extend it to the 10th of *June*, and in Case the Defaulter was a Tobacco Maker, and owed for Officers or Lawyers Fees, you proposed the Execution should be for Tobacco. The Clergy's Dues were put out of this Question by your other Proposition, and the Publick and County Levies and Parochial Charges not being objected to, stood as in the Bill.

We have to observe, that confining the Time of Payment to the 10th of *June*, excludes the Hope to the Farmer of any Relief from Execution by his then growing Crop of Wheat; that generally laying the Planter under a Necessity of selling his Tobacco before the 10th of *June* is laying him under a Necessity of selling his Tobacco below its Value; that an Execution on a



Tobacco-maker for *Money*, for the Publick and County Levies and Parochial Charges, and for Tobacco for Officers and Lawyers Fees, cannot be in both Instances right; that when Men are liable to be called upon for what they have not, they must be under great Disadvantage in making a Contract to pay in what they have; that this Disadvantage is greatly increased by the Manner in which Men may be liable to be called upon for what they have not; and that this Disadvantage would lie with all its Weight on the poorer Planters, out of whose Effects or Persons the Tobacco must be extracted to the Emolument of the Officers and Lawyers.

The Lower House greatly regret the Loss of a most useful and beneficial Regulation of the Staple. They still console themselves with the Reflection, that nothing has been omitted on their Part to bring about an Agreement on just and reasonable Grounds. Your Proposal to adopt the Table of 1745, by which about 25 per Cent. would be added to the Secretary and Commissary General's Offices, and the other Offices much increased, convinces us that nothing can be now done: It is a Proposal indeed that could come from none but Officers themselves, and is unanimously rejected. There are no Hopes of Accommodation left; the Lower House therefore, to prevent any further Waste of Time, have instructed us to break up this Conference.

Which was read.

Mr. Ward brings in, and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to enquire into the Facts set forth in the Petition of Mary Louttit, Executrix of James Louttit, of Cæcil County.

YOUR Committee, in Obedience to the Order of the honourable House, have enquired into the Facts in the said Petition, and find, that James Louttit died possessed of an Estate in Fee Simple, of, and in One Third Part of Thirty-seven and a Quarter Acres of Land, and a Grift-Mill thereon, as appears to us by an attested Copy of a Deed, dated the First Day of April Seventeen Hundred and Sixty: That the said James, as appears by the Deposition of Mr. Sidney George, had some Time before his Death intended to dispose of his Third Part of the said Land and Mill: That near the Time of his Death he was reminded of his Intention by Mr. George, and said he would by all Means have it sold, but that his Executrix could do that without its being mentioned in the Will, and very soon after died.

And your Committee further find, that the Balance of the said Louttit's Estate, by an Account passed by his Executrix, the 28th Day of June 1769, appears to have then been 1368 : 9 1½ Gold Currency, and that there was a Judgment rendered against the said Executrix in September Term 1771 for £. 2000 Sterling Penalty, and Five Hundred Pounds of Tobacco Cost of Suit, as by attested Copies of the Record of the Commissary's Office and Provincial Court may appear: On which Penalty there appears to be due and properly chargeable against the Estate, for Principal and Interest, more than the Balance of the personal Estate.

All which is submitted to the Consideration of the honourable House.

Signed per Order,

JOHN C. JONES, Cl. Com.

Which was read.

The House adjourns till To-morrow Morning 9 o'Clock.

## S A T U R D A Y, [November 23d, 1771.]

THE House met. All Members present as on Yesterday,

The Proceedings of Yesterday were read.

Mr. Ward and Mr. Buchanan have Leave of Absence.

The engrossed Address brought in Yesterday by Mr. Paca was signed by Order of the House by the honourable Speaker.

ORDERED, That Mr. N. Thomas and Mr. Weems do acquaint the Governor, that this House hath prepared an Address to be presented to him, and desires to know when and where he will please to receive it.

They return, and acquaint Mr. Speaker, that the Governor signified he would receive the Address between Eleven and Twelve o'Clock in the Lobby of the Upper House.

ORDERED, That the said Address be presented to the Governor by Mr. Speaker, attended by the whole House, except the Three Gentlemen who voted against it.

Mr. Speaker, with the Gentlemen who attended him, returns, and reports to the House that he delivered the Address to his Excellency.

The engrossed Bills N<sup>o</sup>. 31, 32, 33, were severally read and assented to, and sent to the Upper House with the Paper Bills thereof by Mr. Beall and Mr. Contes.

The Report brought in Yesterday by Mr. Ward was read a Second Time.

And the Petition of Mary Louttit was read and granted; and Leave given to the Petitioner to bring in a Bill pursuant to the Prayer of the said Petition.

Daniel Dulany, Esq. from the Upper House, delivers to Mr. Speaker the Paper Bills N<sup>o</sup>. 31, 32, 33, severally endorsed: "By the Upper House of Assembly, November 23d, 1771: The engrossed Bill, whereof this is the Original, read and assented to.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

The engrossed Bills N<sup>o</sup>. 34, 35, were severally read and assented to, and sent to the Upper House with the Paper Bills thereof by Mr. Chase and Mr. Wootton.

William



*William Hayward*, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bills N<sup>o</sup>. 34, 35, severally endorsed: "By the Upper House of Assembly November 23d, 1771: The engrossed Bill, whereof this is the Original, read and assented to."

Signed by Order,

U. SCOTT, Cl. Up. Ho."

*The House adjourns till Monday Morning 9 o'Clock.*

## M O N D A Y, November 25th, 1771.

**T**HE House met. All Members present as on Saturday, except Mr. *Worthington*, Mr. *Ward*, Mr. *Buchanan*, Mr. *Baxter*, Mr. *Beatty*, Mr. *Weems*, and Mr. *Smallwood*.

The Proceedings of Saturday were read.

Mr. *So. Wright* brings in, and delivers to Mr. Speaker, a Bill, entitled, A Supplementary Act to the Act, entitled, *An Act for the more effectual securing of Orphans Estates*: Which was read the First Time and ordered to lie on the Table.

*The House adjourns till To-morrow Morning 9 o'Clock.*

## T U E S D A Y, November 26th, 1771.

**T**HE House met. All Members present as on Yesterday, except Mr. *Chase*.

The Proceedings of Yesterday were read.

Mr. *Weems* and Mr. *Baxter* appeared in the House.

The Petition of the Vestry and Churchwardens of *St. Luke's* Parish, in *Queen-Anne's* County, is referred for Consideration on the Second Friday in next Session of Assembly.

The Bill, entitled, A Supplementary Act to the Act, entitled, *An Act for the more effectual securing of Orphans Estates*, was read the Second Time, passed, and sent to the Upper House by Mr. *So. Wright* and Mr. *Earle*.

The Petition of the Merchants in *Bladenburg* is referred for Consideration on the Second Monday in next Session of Assembly.

Mr. *William Wright*, at his own Request, is discharged from any further Attendance as a Committee Clerk.

The Petition of *John Stuart* and *Duncan Campbell* is referred for Consideration on the Second Wednesday in next Session of Assembly.

Mr. *Grahame*, from the Conference, delivers to Mr. Speaker the following Paper:

**W**HEN Applications were made to us, from Time to Time, by the Conferrees of the Lower House, to defer our Meeting, we were flattered, by our ardent Wishes for a reasonable Settlement, that the Interval gained by the frequent Adjournments, would be productive of some Expedient, by which Dissent might be reconciled; and the Passage of the Inspection Bill facilitated, and were therefore struck with Concern and Surprise when we found that the Time had been misemployed in perverting Facts, and indulging a Petulance, which the least Idea of Decorum, unextinguished by the Inveteracy of Habit, would have repressed.

You hoped, so you have professed, that Reason and Argument would reconcile the differing Sentiments of the Two Houses, and therefore agreed to a Conference; if such was really your Hope, it is unfortunate indeed that you so entirely forgot the Grounds of it, as, instead of Reason and Argument, to offer Professions for Proofs, Evasions for Answers, Assertions to convince, and Rudeness to conciliate.

The Eulogies on your *unbiased Judgment*, *immutable Justice*, and *soundest Policy*, would have been more graceful and honourable, had they not been bestowed by yourselves, and better credited too, unless your Reliance be infallible, that Credulity will keep Pace with Confidence.

The Regulation of Officers Fees is as certainly of Importance, as that an express Law, preventive of Contest, is better than Opinions studiously calculated, and industriously exhibited, to promote Discontent and encourage expensive Litigation. You thought the Regulation of Officers Fees ought in the first Place to have been settled, not because it first occurred in the Bill, but for other Reasons assigned in your last Paper, of which we no more perceive the Force than we are able to guess at the Event which has approved them. We have not declined the Consideration of this Topick, nor has any Time been lost by the Arrangement of our Propositions. You have been constrained to admit that we have imparted our Reasons, tho' you think it useless to examine them minutely; but is such Conduct consistent with the Purpose of a Conference, as would naturally be pursued by the very Opponents of the Measure? We at once declared that we would not agree to a Reduction of the Fees, legally chargeable under the old Table, beyond that very considerable one in the Election given to all Persons to pay in Money or Tobacco; if a further Reduction than this was your Aim, why did you not at once avow it, and terminate the Conference at least with Civility? We have over and again offered to concert with you the proper Means for preventing every Abuse committed under the old Table, but we are not bound to admit every Thing to be what you choose to call it. You have not informed us in what Instances the Demands of the Surveyors and Examiner have been extravagant, nor pointed out the Abuses they have actually committed; we are not acquainted with



with their Abuses; we must understand the Subject, and have a fair Opportunity of judging upon it, before we bind ourselves by Concessions. The Matters you have represented to be Abuses in the Commissary's Office, are the Orders and Charges on Administrations, &c. granted by the Deputies. You asserted, that "there is an additional Order in this Office to almost every Act done therein, when the old Table made the Allowance *only* in Testamentary Causes;" and in order to correct this supposed Abuse, the new Table allows *only* in the single Instance of entering every Motion in Court and Order thereon, Five Pounds of Tobacco; must not such an Alteration very much diminish the Fees of the Commissary General, when there can be no Pretence that it is necessary to prevent Abuse, since *besides* the Allowance for Orders in Testamentary Causes, the only Allowance you have acknowledged, the old Table most expressly gives a Fee for Orders in Four other Instances, exclusive of the general Article? Can this be directly denied to be an Attempt to reduce, under the Pretence of correcting Abuses?

As to the double Charge, as you call it, we may add to what we have already advanced, that it is not only consistent with constant Usage, but has been admitted to be regular in the various Instances, both at Law and in Equity, of Allowances made to Executors and Administrators, for their Charges and Disbursements. You have positively asserted, that we "proposed the Regulation of Fees contained in the Bill of 1745 should now be established with Respect to the Secretary's and Commissary General's Offices," "to say nothing of the other Offices."

Egregious Misrepresentation! In what Part of our Paper was the Secretary's Office or any other, except the Commissary's, even mentioned, or with what Degree of Propriety or Candour can our Proposition, respecting the Bill of 1745, be applied to the Secretary, or any other Officer than the Commissary? We *modestly proposed*, you aver, an Addition of 25 *per Cent.* to the late Regulation of Fees in those Offices. Is such Language as this suitable to the Nature of our Intercourse? In the Outset of the Conference we discovered that Pertinacity was included in your Idea of Dignity, and we must now infer, from your Expressions, that Misrepresentation and Ill-manners complete it.

The Want of Decency is as little Proof of superior Probity, as it is of superior Sense. In your Paper of the 19th Instant, you allege, in Answer to what we had urged, in Respect of the Commissary General's Charge, when Services are done by his Deputies, "that in the Year 1745, the Regulation of Officers Fees being a principal Object of Attention, a Bill was framed for the Purpose, in Consequence of an Agreement between Conferrees, and passed both Houses; that the double Charge was then under Consideration, twice agitated, and finally agreed to be abolished." To confirm your State, you added an Extract from the Journals, and subjoined these Words: "*This Extract needs no Comment*, the Sense of the Two Houses on this Point, is fully and clearly expressed;" what Point but the double Charge? Our Answer to you on this Head was, that by the Scheme of the Bill of 1745, the Commissary General was to charge no Fees when the Services should be done by the Deputies; but it was no Part of it that there should be an Enlargement of their Jurisdiction from £. 50 to £. 150. That the Inspection Act made no Provision against the Charge of the Commissary General in the above Instance, but enlarged the Jurisdiction of the Deputies to the Extent of £. 150. That no Inference could be drawn from the rejected Bill to prove a Charge under the Regulation of 1747 to be an Abuse, though that Bill might be material to shew what was the true Construction of, and Usage under the Act of 1715, and that the Omission of the Restriction in the Inspection Act, shewed what the Legislature in 1747 intended should be the Operation of this Act; because it appears by the Journals, that the Assembly in 1747 had the Bill of 1745 under their Consideration. We referred to the Practice before the Act of 1715, to the Terms of this Act, as well as of the Inspection Law, and to the constant Usage under both, represented our Persuasion, that the Income of the Commissary would be so much reduced by the new Table as to be below the Regard of a Gentleman, and pointed out, for your Reflection, what would be the Consequence in Regard to Pauper Estates, and the Jurisdiction of the Deputies, if left to the Act of 1715; then followed our Proposition in these Words, "Do you choose the Regulation of Fees proposed by the Bill of 1745, which you have mentioned with so much Approbation, should now be established? Be pleased to declare explicitly. We are willing to adopt that Regulation: Or, do you mean to contend for the *Reduction in the Article of the double Charge* on the Authority of the Bill of 1745, and your Persuasion that the Framers of it were particularly attentive to, and careful of the Publick Convenience; and depart from it in the other Respects? If you do, all Prospect of an Accommodation is at an end." Does a single Syllable occur relative to the Secretary's Office, or to any other than the Commissary's? Was not the *double Charge* the immediate Subject of Discussion? What is the Antecedent to which the relative Expressions are applicable? Did we not expressly mention our Persuasion, that the Income of the Commissary-General would be reduced, by the new Table, below the Regard of a Gentleman? What Relation to, or Effect upon his Income could an Extent of the proposed Regulation of 1745 to the other Officers have? Can it be really imagined, when the general Question on the Conference was to what Degree Fees of Officers should be reduced, and when we have only contended for the old Table, with the Allowance of the Alternative to the People, and you for a Reduction more considerable, that we could mean to propose an Addition of 25 *per Cent.* to the Fees of the Officers settled by the old Table? A general Expression occurring, that has been caught at, and the certain Rule of Construction sacrificed to the favourite Purpose of venting Contumely in illiberal Language, and fixing an unmerited Odium. The Conclusion of our Paper, if farther Argument were necessary, demonstrates, that it could not be our Meaning to include the Secretary or County Clerks, whose Names were not mentioned, or Offices hinted at, in any former Part of it; had such been our Meaning, the Repetition of our Willingness to prevent



vent in future, Charges for recording under the Table of 1747, that should appear to be Abuses, would have been extremely incongruous.

It cannot but be expected, that under the Alternative extended to all Persons to pay in Money or Tobacco, very little, if any Tobacco would be paid, unless it should happen to fall to, or below the Value of the Money. On this Supposition, should the proposed Regulation of 1745 be established instead of that of 1747, we are well satisfied the Income of the Commissary-General, under the former, would be so far from exceeding his Income under the latter Regulation 25 per Centum, that it would rather fall short of it, in Consequence of the great Reduction in the Article of Services done by his Deputies.

It is most probable, that the Business in the Offices will be augmented with the increasing Population of the Country, but with the Business, so will the Trouble and every Expence increase.

It has been found in England, that Fees settled by a Statute of Henry the 8th, in some Testamentary Cases, notwithstanding the subsequent Increase of Business, have become so inadequate, from the Depreciation of Money, and the Augmentation of every Expence, that Practice and Allowance have established an Addition to them.

Though we have been at the Trouble of shewing at large, that your Construction of our Proposition is repugnant to our Meaning; yet to prevent any possible Impression being taken, that the Passage of the Bill failed because our Proposition extended to all Officers, we think it necessary most explicitly to declare, that we desire the Proposition may be understood to relate to the Commissary-General only.

You say, that "the Governor's Message, in Respect of the Clergy, had determined our Action, though it does not seem to have convinced our Understanding." The little Smartness of this Remark does not atone for the Injustice and Rudeness of it, as every one must perceive, who may happen to peruse our Propositions; to which we take the Liberty to add, that however offensive his Excellency the present Governor's Tendernefs, on the Affair of the Clergy's Freeholds may be to you, in the Year 1739, when Governor Ogle proposed the 40 per Poll should be discharged in Paper Money, at Ten Shillings per Hundred Pounds of Tobacco, the Lower House expressed themselves on the Subject in the following Terms: "This House is not acquainted with the Disposition of the Clergy in Point of their 40 per Poll, and shall always have a just Regard to that Reverend Body, nor attempt to intrude any Terms on them which may not suit their Inclinations to accept of; but shall always be ready and willing to receive such Proposals as they may judge suitable to make." Nor was this Sentiment of the Lower House in 1739 peculiar, for in all Bills for the Division of Parishes, Care has been taken not to affect the Incumbent in his Rights of Freehold, without his Consent.

"You hoped, as we could get Nothing by acting contrarily, for our united Efforts to obtain the Relief of the People" by a new Regulation of the Clergy's Dues. Whatever general Relief might arise from a new Establishment, we and our Connexions would equally partake of with others; but Relief is not to be gained by intemperate Exertions and imprudent Perseverance. Every practicable Method of Relief we could think of we have proposed, and you have rejected. Had your Invention struck out any other than has occurred to us, we should have examined it with Candour, and adopted it, if worthy of Adoption, with Alacrity. Your Bill indeed has proposed a Method, but you have found it to be unattainable, and is it the Part of Discretion to lose what you may get, when you can have no Prospect of obtaining what you wished to accomplish? We should have no Objection to the Continuance of a new Regulation of the Clergy, according to our Proposition, for Twelve or Fifteen Years; but an indefinite Duration of it we shall never agree to.

Sir Henry Spelman observes, that "Eight Bushels of Wheat were formerly estimated at Twelve-pence, as appears from an Assize of Bread in the 51st Year of Henry the 3d." In Blackstone's Commentaries, there is this Passage: "Bishop Fleetwood, about Sixty Years since, fully proved Forty Shillings per Annum in the Reign of Henry the 6th to have been equal to £. 12 per Annum in the Reign of Queen Anne, and as the Value of Money is very considerably lowered since the Bishop wrote, I think we may fairly conclude, from this, and other Circumstances, that what was equivalent to £. 12 in his Days, is equivalent to £. 20 at present."

The same Author speaking of the Stat. Elizabeth, which directs that "One Third Part of the old Rent then paid, should for the future be reserved on College Leases in Grain, reserving a Quarter of Wheat for each 6s. 8d. or a Quarter of Malt for every 5s. or that the Lessees should pay for the same, according to the Price that Wheat or Malt should be sold for in the Market next adjoining to the respective Colleges on the Market Day before the Rent becomes due," has these Words, "This is said to have been an Invention of Lord Burleigh, and Sir Thomas Smith, who, observing how greatly the Value of Money had sunk, and the Price of all Provisions risen by the Quantity of Bullion imported, (which Effects were likely to increase to a greater Degree) devised this Method for upholding the Revenues of Colleges. Their Foresight and Penetration have in this Respect been very apparent; for tho' the Rents reserved in Corn were at First but One Third of the old Rent, or half of what was still reserved in Money, yet now the Proportion is nearly inverted, and the Money arising from Corn Rents is *Communibus Annis*, almost double to the Rents reserved in Money."

The decent Maintenance of the Clergy is an Object of great Importance, and not to be neglected; but the pecuniary Composition now adequate, may hereafter, from Money's falling in Value, not afford them a competent Support; and therefore an Act, a pecuniary Compensation, ought, we think, to be temporary.

T

You



You have not answered, or even attempted to answer our Reasoning on the Article in the old Table, for filing and recording. Your Doctrine of Records, if it could be supported, would be so far from fixing the Charge of Abuse, that it would rather prove, more might have, than has been demanded under that Article. You have not either hinted at any Rule of Apportionment, or that the Service of filing ought to be performed for Nothing.

Without Doubt the Judgments entered in Books are Records; but it does not therefore follow that Nothing which is not so entered, is not a Record, nor do the Acts of 1716 and 1742 prove the Propriety of your Idea in the Limitation.

The present Assize Bill (as well as former Assize Laws) directs the Records to be made out for the Trial of Issues in Fact at the Assizes. In these Cases there are no Judgments entered up, or transcribing the Pleadings into any Book. The Suits may abate, be agreed, or discontinued. If an Action be prosecuted in the Provincial Court, and afterwards another Action in the County on the same Bond, may not the former be pleaded in Bar of the latter? If a Suit be abated by the Death of the Defendant, and without Delay renewed against his Executor or Administrator, may not the Bar from Length of Time be avoided by pleading the former Suit and recent Renewment? In either of the Cases put, tho' the Proceedings be not transcribed into a Book, may they not be properly referred to as Records?

In what Respects the Clerks differ in their Manner of charging, we do not know; but what is wrong we are willing to correct. It is true, that when it becomes necessary to transcribe the Pleadings into a Book, the Trouble is greater than when this Business is not done, and the Reward therefore is not always proportioned to the Trouble; but this exact Proportion between the Service and the Reward, can't always be maintained.

By the Laws of this Province, yet in full Force, an Attorney has an Allowance of the same Fee on finishing a Suit in which he is concerned, whether it end in a Judgment, after the Trial of Issues in Fact, Arguments on Demurrer, and Motion in Arrest of Judgment, or by the Death of one of the Parties immediately after Appearance, and yet on the whole we presume you will not strenuously contend, that the Fee allowed by Law is extravagant and requires Reduction.

As to the Time of Payment we do not perceive any Inconvenience from it, but what may fall upon the Improvident, whom hardly any Indulgence can save from Distress. If the Farmer is supposed to be unable to pay before he shall have disposed of his Crop, your Time of the 10th of August would not suit his Circumstances; for he could not dispose of his Crop to Advantage till some Months after that Day. As to the Publick and County Levy, and Parochial Charges, when the former shall be laid, the Law directing it may properly appoint the Time of Payment, and for the most Part, they who may be concerned in the County Levy, or Parochial Charges, may make their Contracts, or have their Allowances suited to the Time of Payment; but they who can't, we agree ought to be paid in the same Manner with the Officers and Lawyers.

As to the Inspectors Bonds we shall only observe, that there ought to be a Security against the Oppression of Inspectors, as well as of other Men, and that, as the Bill is framed, we apprehend they might be perpetually harrassed by groundless Suits, and receive no Satisfaction for the Costs attending their Defence.

Such have been your Affectation of Want of Comprehension, your Propension to mistake, and Resolution to misrepresent, that Repetition, however irksome, became necessary, and Prolixity, disgusting as it is, unavoidable. It has been our Observance not to give Offence, but we esteemed it to be as little our Duty, as we feel it to be our Inclination, not to repel wanton Insult.

Which was read.

The Question was put, That the following Paper, viz.

**W**E are instructed to inform your Honours, that a particular Answer to your illiberal Language cannot be productive of any publick Good; and not being disposed to attempt a Rivalship with your Honours in the Talents for Petulance and impertinent Inveective, the Lower House have Ordered an End to be put to this Conference. Be given to the Conferrees of this House, to be by them delivered to the Conferrees of the Upper House? Resolved in the Affirmative.

For the A F F I R M A T I V E.

Messieurs	{	Mackall,	Moale,	Beall,	Paca,	Earle,
		Weems,	Risteau,	Tyler,	Tilghman,	Wootton,
		Harrison,	Deye,	Contee,	Chamberlaine,	Hagar.
		Adams,				

For the N E G A T I V E.

Mess.	{	Gresham,	Hammond,	Hawkins,	Hall,	Luckett.
		Ringgold,	Grahame,	Richardson,	Thomas,	
		Johnson,	Ware,	Baxter,	T. Wright,	

The House appoint Mr. Beall, Mr. Tilghman, Mr. Grahame, Mr. Johnson, Mr. Hall, and Mr. W. Richardson, a Committee to treat with Mr. Frazier, in what Manner the House which he has offered for the Use of the Assembly and Provincial Court shall be finished, and what Conveniences shall be found by him, and at what Rate it shall be rented by the Year, and make Report thereof To-morrow Morning.

His



His Excellency communicates to Mr. Speaker the following Message and Letter.

Gentlemen of the Lower House of Assembly,

HAVING been informed that Deputies of the *Delawares*, *Munfies* and *Mohekins*, are now in *Philadelphia*, and intend hither on the Business mentioned in the Copy of their Speech you have with this; and presuming that these Indians expect to be accommodated here with Necessaries, as well as to receive a Present, I must request that you will make such Provision for the Occasion, as may appear to be proper.

ROB. EDEN.

Copy of a Speech sent from the Chiefs of the *Delawares*, *Munfies* and *Mohekins*, by a Deputation of the several Nations living on the *Ohio*, to the Governors of *Pennsylvania*, *Maryland* and *Virginia*.

BRETHREN,

IN former Times our Forefathers and yours lived in great Friendship together, and often met to strengthen the Chain of their Friendship. As your People grew numerous, we made Room for them, and came over the great Mountains to *Ohio*; and some Time ago, when you was at War with the *French*, your Soldiers came into this Country, drove the *French* away and built Forts. Soon after, a Number of your People came over the great Mountains, and settled on our Lands; we complained of their Incroachments into our Country, and Brethren, you either could not, or would not remove them. As we did not choose to have any Disputes with our Brethren the *English*, we agreed to make a Line, and the Six Nations at *Fort Stanwix*, Three Years ago, sold the King all the Lands on the East Side of the *Ohio*, down to the *Cherokee* River, which Lands were the Property of our Confederacy, and gave a Deed to Sir *William Johnson*, as he desired. Since that Time, great Numbers more of your People have come over the great Mountains and settled throughout this Country; and we are sorry to tell you, that several Quarrels have happened between your People and ours, in which People have been killed on both Sides, and that we now see the Nations round us and your People ready to embroil in a Quarrel, which gives our Nations great Concern, as we on our Parts want to live in Friendship with you. As you have always told us you have Laws to govern your People by, (but we do not see that you have) therefore, Brethren, unless you can fall upon some Method of governing your People who live between the great Mountains and the *Ohio* River, and who are now very numerous, it will be out of the Indians Power to govern their young Men, for we assure you the black Clouds begin to gather fast in this Country, and if something is not soon done, those Clouds will deprive us of seeing the Sun: We desire you to give the greatest Attention to what we now tell you, as it comes from our Hearts, and a Desire we have to live in Peace and Friendship with our Brethren the *English*, and therefore it grieves us to see some of the Nations about us and your People ready to strike at each other. We find your People are very fond of our rich Land: We see them quarreling with each other every Day about Land, and burning one anothers Houses, so that we do not know how soon they may come over the River *Ohio* and drive us from our Villages, nor do we see you, Brethren, take any Care to stop them. It is now several Years since we have met together in Council, which all Nations are surprised and concerned at. What is the Reason you kindled at the *Ohio* for us to meet you, which we did, and talked friendly together, that you have let the Fire go out for some Years past? This makes all Nations jealous about us, as we also frequently hear of our Brethren the *English* meeting with the *Cherokees* and with the Six Nations, to strengthen their Friendship, which gives us Cause to think you are forming some bad Designs against us who live between the *Ohio* and the *Lakes*. I have now told you every Thing that is in my Heart, and desire you will write what I have said, and send it to the great King.

KILL BUCK, Speaker.

A BELT.

Which were severally read.

Mr. *Grahame*, from the Conference, delivers to Mr. Speaker the following Paper.

THE Style of the Paper now delivered by the Conferrees of the Lower House, is so consistent with the Spirit of their other Proceedings, that we are not surprised at it, and most willingly consent an End may be put to an Intercourse so extremely disagreeable.

Which was read.

The Bill, entitled, *An Act for the speedy and effectual Publication of the Laws of this Province, and for the Encouragement of Anne Catharine Green, of the City of Annapolis, Printer*, was read a Second Time and will pass.

*The House adjourns till To-morrow Morning 9 o'Clock.*

W E D N E S D A Y, November 27th, 1771.

THE House met. All Members present as on Yesterday, except Mr. *So. Wright*. The Proceedings of Yesterday were read. Mr. *Worthington* appeared in the House.

The Bill, entitled, *An Act for the speedy and effectual Publication of the Laws of this Province, and for the Encouragement of Anne Catharine Green, of the City of Annapolis, Printer*, sent to the Upper House by Mr. *N. Thomas* and Mr. *Baxter*.

The Bill, entitled, *An Act relating to the Levy and Poor of Anne-Arundel County*, was read a Second Time, passed, and sent to the Upper House by Mr. *Worthington* and Mr. *Hammond*.

The



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The House proceeded to tax the following private Bills, viz.

An Act for confirming to *Samuel Cookson* of *Baltimore* County, sundry Lands therein mentioned:  
To the honourable Speaker, - - - - - £. 4 0 0  
To the Clerk, - - - - - 2 0 0

An Act to empower *Frank Lecke* and *George Digges*, Administrators of *Charles Digges*, late of *Prince George's* County, deceased, with the last Will of the same *Charles* to their Letters of Administration annexed, to sell a Lot of Ground of the same *Charles*, situate and being in the Town of *Upper Marlborough*, in *Prince George's* County aforesaid, for the Payment of the Debts of the said *Charles Digges*.  
To the honourable Speaker, - - - - - £. 2 0 0  
To the Clerk, - - - - - 1 0 0

An Act for the Naturalization of *Charles Frederick Wiesenthal*.  
To the honourable Speaker, - - - - - £. 6 0 0  
To the Clerk, - - - - - 3 0 0

An Act to empower *Elizabeth Williams*, Administratrix of *George Williams*, with the Will annexed, to make and execute the Conveyances therein mentioned.  
To the honourable Speaker, - - - - - £. 1 0 0  
To the Clerk, - - - - - 0 10 0

An Act to empower *Jane Ridgely*, Executrix of *Nicholas Greenberry Ridgely*, late of *Anne Arundel* County, deceased, to convey the Land therein mentioned.  
To the honourable Speaker, - - - - - £. 2 0 0  
To the Clerk, - - - - - 1 0 0

An Act for the directing the Sale of the Lands of *John Stone Hawkins*, late of *Prince George's* County, deceased, for the Payment of the Debts of the said *John Stone Hawkins*.  
To the honourable Speaker, - - - - - £. 2 0 0  
To the Clerk, - - - - - 1 0 0

An Act to enable the Executors of *Thomas Colvill* to convey the Land therein mentioned.  
To the honourable Speaker, - - - - - £. 6 0 0  
To the Clerk, - - - - - 3 0 0

An Act to empower *Mary Louttit*, Executrix of *James Louttit*, deceased, to convey One undivided Third Part of the Mill and Land therein mentioned.  
To the honourable Speaker, - - - - - £. 1 0 0  
To the Clerk, - - - - - 0 10 0

*Daniel of Saint Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*; thus endorsed: "By the Upper House of Assembly, October 19, 1771: Read the First Time and ordered to lie on the Table.

Signed by Order,

U. SCOTT, Cl. Up. H.

"By the Upper House of Assembly, Nov. 26, 1771: Read the Second Time and will not pass.

Signed by Order,

U. SCOTT, Cl. Up. H.

*Walter Dulany*, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act for the speedy and effectual Publication of the Laws of this Province, and for the Encouragement of Anne Catharine Green, of the City of Annapolis, Printer*; thus endorsed: "By the Upper House of Assembly, Nov. 27, 1771: Read the First and Second Time by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which was read here and passed for engrossing.

The Bill, entitled, *An Act directing the Manner of punishing Fornication and Adultery before a single Justice of the Peace out of Court*, is referred for Consideration till next Session of Assembly.

A Bill, entitled, *An Act to empower Mary Louttit, Executrix of James Louttit, deceased, to convey One undivided Third Part of the Mill and Land therein mentioned*, was read the First and Second Time by an especial Order, passed, and sent to the Upper House by Mr. Baxter and Mr. Deye.

On Motion, ORDERED, That Leave be given to bring in a Bill, empowering the County Courts to settle with Persons who were formerly Inspectors of Tobacco for the Ease of the People in Payment of Publick Dues, and that Mr. Tilghman, Mr. Thomas, Mr. Johnson, Mr. Hall, and Mr. Worthington, do prepare and bring in the same.

Mr. Tilghman brings in and delivers to Mr. Speaker the said Bill; which was read the First and Second Time by an especial Order, and sent to the Upper House, with the engrossed Bill No. 36, by Mr. Tilghman and Mr. N. Thomas.

Mr. Beall brings in and delivers to Mr. Speaker the following Report

By



By the COMMITTEE appointed to enquire into, and report on the Petition of the Subscribers living in and convenient to the Town of Bladensburgh, in Prince George's County, Nov. 27, 1771.

YOUR Committee beg Leave to inform the Honourable House, that they have received the Representation of the Subscribers, who are Freeholders of Prince George's County, living near Bladensburgh, but not Inhabitants of the said Town, together with a Representation (in a Letter) from Doctor Ross, accompanied with a rough Sketch of the Eastern Branch of Potowmack River, in Relation to the Prayer of the above Petitioners, as to Wares and Hedges, and cleaning Fish on the Publick Landing of the Town of Bladensburgh, which are hereunto annexed, and submitted to the Consideration of the Honourable House.

Signed by Order,

THOMAS B. HODGKIN, Cl.

The House took into Consideration his Excellency's Message of Yesterday, and referred the further Consideration thereof till To-morrow Morning.

The House adjourns till To-morrow Morning 9 o'Clock.

THURSDAY, November 28, 1771.

The House met. All Members present as on Yesterday,  
The Proceedings of Yesterday were read.

The Order of the Day being read, the House resumed the Consideration of his Excellency's Message of the 26th Instant, and RESOLVED, That a Sum of the Publick Money in the Hands of the Treasurer of the Western Shore, not exceeding Fifty Pounds common Currency, be paid to the Order of his Excellency the Governor, for the Accommodation of the Deputies of the Delaware, Munsee and Mohokin Indians, whilst in this Province.

ORDERED, That Mr. Hall, Mr. Tilghman, Mr. Johnson, and Mr. Pasa, do prepare an Address to his Excellency informing him thereof.

ORDERED, That the same Gentlemen do prepare a Message to the Upper House, informing them of the Resolution of this House, and to send a Copy thereof for their Concurrence.

William Hayward, Esq; from the Upper House, delivers to Mr. Speaker the Paper Bill No. 36; thus endorsed: "By the Upper House of Assembly, Nov. 27, 1771: The engrossed Bill whereof this is the Original, read and assented to.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

The Bill, entitled, *An Act relating to the Levy and Poor of Anne-Arundel County.* And, the Bill, entitled, *An Act to empower Mary Louttit, Executrix of James Louttit, deceased, to convey One undivided Third Part of the Mill and Land therein mentioned;* severally endorsed: "By the Upper House of Assembly, Nov. 27: Read the First and Second Time by an especial Order, and will pass.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

Which Two last mentioned Bills were severally read here and passed for engrossing.

The Report brought in by Mr. Harrison the 16th Instant, is referred for Consideration on the Second Tuesday in next Session.

The Report brought in Yesterday by Mr. Beall, was read, and referred for Consideration next Session of Assembly,

Mr. Beall brings in, and delivers to Mr. Speaker the following Report.

By the COMMITTEE appointed to treat with Mr. Frazier in what Manner his House which he has offered for the Use of the Assembly and Provincial Court shall be finished, and what Conveniencies shall be found by him, at what Rate it shall be rented by the Year, and make Report thereof.

YOUR Committee, in Obedience to the Order of the honourable House, have treated with Mr. Joshua Frazier, and find, That he will finish off a Room sufficiently large for the Lower House of Assembly to sit in, with a Fire Place, Sash Windows, the Sides of the Room neatly planked up, the Floors laid, and Ceiling plastered, with Forms or Benches with Backs for the Members, a Table for the Clerk, and Chair for the Speaker; and will floor, plaister and glaze Four other Rooms, Three of which will have Fire Places, with Table and Benches; and will build a commodious Porch with Seats at the Entrance of the House, and a small convenient Out-house. All which he will let for the Use of the Lower House and Provincial Court from the Time it is first taken, until the Building designed for those Purposes is by Contract to be finished, for the Sum of Eighty Pounds common circulating Currency per Year, to be allowed him in the Journal of Accounts, but in Case the Assembly and Provincial Court should sit at the same Time, he will not be obliged to find any other House for either to sit in.

All which is submitted to the Consideration of the honourable House.

Signed per Order,

JOHN C. JONES, Cl. Com.

Which was read the First and Second Time, and the House concurs therewith.

Mr. Tilghman brings in and delivers to Mr. Speaker an Address to the Governor; which was read, approved of, and ordered to be engrossed.

The engrossed Bills No. 37, 38, were severally read and assented to, and sent to the Upper House with the Paper Bills thereof, by Mr. Baxter and Mr. Moale

The following Message,



78 VOTES AND PROCEEDINGS, OCTOBER 1771.

By the LOWER HOUSE of ASSEMBLY, 28th, Nov. 1771.

*May it please your HONOURS,*

**W**E herewith send you a Resolve of this House, relative to the Deputies of several Tribes of Indians who are expected to pass through this Province, for your Concurrence.

As we have no Business at present before us that requires our staying any longer, we request your Honours to return such Bills as may be lying on your Table, that a speedy End may be put to this Session.

*Signed by Order,*

JOHN DUCKETT, Cl. Lo. Ho.

Bring prepared, was sent to the Upper House, with the Resolve mentioned therein, by Mr. Tilghman and Mr. Johnson.

Mr. Tilghman brings in and delivers to Mr. Speaker the following engrossed Address.

To his Excellency ROBERT EDEN, Esquire, Governor and Commander in Chief in and over the Province of Maryland.

The humble ADDRESS of the HOUSE of DELEGATES.

*May it please your EXCELLENCY,*

**I**N Answer to your Message, relative to the Delaware, Munsee and Mohokin Indians, we are willing to make Provision for the Deputies of those Tribes in their Passage through this Province, and have therefore resolved, that a Sum of the Publick Money in the Hands of the Treasurer of the Western Shore, not exceeding Fifty Pounds common Currency, be applied for their immediate Accommodation.

We do not look upon it that the People of this Province can be affected by any Claim of Indians to their Lands, and therefore do not think proper to burthen them with any Sum to be given by Way of Present.

Which was read and assented to, and signed by Order of the House by the honourable Speaker.

ORDERED, That Mr. Mackall and Mr. Contee do acquaint his Excellency that this House hath prepared an Address to be presented to him, and desires to know when and where he will be pleased to receive it. They return and acquaint Mr. Speaker, the Governor signified he would receive the Address at Eleven o'Clock To-morrow Morning in the Lobby of the Upper House.

George Stewart, Esq; from the Upper House, delivers to Mr. Speaker the following Message

By the UPPER HOUSE of ASSEMBLY, Nov. 28, 1771.

GENTLEMEN,

**T**HIS House concurs with your Proposition, that a Sum of the Publick Money in the Hands of the Treasurer of the Western Shore, not exceeding Fifty Pounds common Currency, be paid to the Order of his Excellency the Governor, for the Accommodation of the Deputies of the Delaware, Munsee and Mohokin Indians, whilst in this Province.

*Signed by Order,*

U. SCOTT, Cl. Up. Ho.

The Paper Bills No. 37, 38; severally endorsed: "By the Upper House of Assembly November 28, 1771: The engrossed Bill, whereof this is the Original, read and assented to."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

And the Bill, entitled, A Supplementary Act to the Act, entitled, *An Act for the more effectual securing of Orphans Estates*; thus endorsed: "By the Upper House of Assembly, November 26, 1771: Read the First Time and ordered to lie on the Table."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, Nov. 28, 1771: Read the Second Time and will pass with the Amendments annexed."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

At the End of the Bill add as follows, viz. "And whereas Estates of deceased Persons, from a Tenderness to Executors and Administrators, are frequently estimated by the Appraisers, below their true Value, and the Executors and Administrators are or ought to be accountable for the full Value, so far as the same shall be sold upon an open, fair and publick Sale, and on the other Hand they ought only to be answerable for what the same shall be so *bonâ fide* sold, altho' it shall be below the Estimate of the Appraisers. And whereas there are perishable Goods in all such Estates, which the Executors or Administrators frequently take to themselves at the appraised low Value or Estimate returned to the Prerogative Office, or suffer them to be by Use or Abuse diminished in Value, to the Injury of the Legatees and others: Be it therefore enacted, by and with the Consent and Advice aforesaid, that all Executors and Administrators, shall hereafter, as soon as conveniently the same may be done, sell and dispose of all such Goods and Chattels of their Testator or Intestate, (Manuscript Books and Papers of all Sorts, Family Pictures and specifick Estate, according to the Acts of Assembly, excepted) as are or may be liable to perish, consume or be the worse for using or keeping; and also when other Personal Estate is all duely administred and paid away, shall sell as much only of the specifick Personal Estate as shall be necessary to discharge the Debts and Legacies (other than specifick Legacies) of the Testator, or the Debts of the Intestate, for the most that can be got for the same in Money, by



by publick Sale or Auction, upon the best or most publick Notice of such intended Sale, and shall and may, for the enhancing the Price thereof to its full Value, give Credit not exceeding one Year, upon all Sums above Eight Pounds, upon Bond with good Security; and when such Goods and Chattels shall be so *bonâ fide* sold, the Executors or Administrators shall be answerable thereon for the Value of such Sale, and no more; and the Executors or Administrators may assign such Bond or Bonds to the Legatees or other Distributees, which shall discharge Executor or Administrator for so much against him or them, the said Executor or Administrator having first paid or Satisfied the Debts appearing to be due from such Estate. Provided always, that if after such Assignment, the Obligor or Obligors in such Bond become insolvent, to as the Money therein mentioned, or any Part thereof, be lost, without the Neglect of the Assignee, such Loss shall be made good to the Assignee out of the Estate of the Testator or Intestate; and if the Security or Securities in such Bond or Bonds, were insolvent, or reputed of doubtful Ability to pay at the Time of the Bond given, then the Assignee shall be paid and satisfied such Sum by the Executor or Administrator, out of his own proper Estate, and his Assignment of such Bond or Bonds as aforesaid, shall not operate as a Discharge in Manner aforesaid. And be it enacted, that the Appraisement or Inventory returned into the Prerogative Office, may be given in Evidence in any Action brought against such Executor or Administrator, as hitherto used to prove the Value of the Estate, but shall not be conclusive either upon the Executor, Administrator, Creditor or other Person, where it shall appear in Proof that such Goods or Chattels *bonâ fide* sold for more or less than the Appraisement, but the Parties shall be concluded therein by the Proof of the Value on such Sale. Provided also, that no such Sale as aforesaid shall be made, where the last Will and Testament of any Testator who shall leave other Effects sufficient to satisfy his just Debts shall direct to the contrary, or where any residuary Legatee shall enter into sufficient Bond with good Security for the Payment of all the Testator's Debts, and lodge the same Bond in the Prerogative Office of this Province, with a Probat of the due Execution thereof, made by the subscribing Witnesses before the Commissary, Deputy Commissary, or some Provincial or County Justice, or other Magistrate having Authority to administer an Oath. And that Claimants may more easily know the Value of such Sales, Be it enacted, that Executors or Administrators shall, with all convenient Speed, make out a List or Inventory of all such Personal Estate, as they shall as aforesaid cause to be sold, in Columns, with the Dates, Names of the Buyers, and the several Prices for which they sold, also a distinct Column mentioning what thereof were included in the Inventory of the Appraisers, and what thereof were not, and shall then, before some Magistrate duly authorised to administer an Oath, depose, or if a Quaker, affirm, that after using his best Endeavours to procure Buyers, by Notices put up and continued in many different Places, the most usual and publick for Advertisements in the County and Neighbourhood of the Place where the same were sold, intimating the Time and Place of such Sale, he had fully and fairly sold the said Estate for the best Price that could be got, in Manner as is by this Act directed, and that the said List is a just, full and true Account thereof; which List shall be subscribed by the Executor or Administrator, and also by the Auctioneer, if any, and then with all Speed the Executor or Administrator shall cause the same to be lodged in the said Office. And it being apprehended, that an Auctioneer who is used to sell in the said Way would be more likely to procure the utmost Value than one unused therein, Be it enacted, that the Executors or Administrators may, if they think fit, hire such Auctioneer to sell such Estate in Manner aforesaid; and the Executors or Administrators may pay him as they can agree therefor, not exceeding the Rate of Two Pounds Ten Shillings *per Centum* on the Amount of such Sale.

"This Act to continue Three Years, and to the End of the next Session of Assembly after the End of the said Three Years."

Which was read; and the proposed Amendments were read and ordered to lie on the Table.  
*The House adjourns till To-morrow Morning 9 o'Clock.*

F R I D A Y, November 29th, 1771.

THE House met. All Members present as on Yesterday.

The Proceedings of Yesterday were read.

The Amendments proposed by the Upper House to the Bill, entitled, A Supplementary Act to the Act, entitled, *An Act for the more effectual securing of Orphans Estates*, were read a Second Time, and referred for Consideration next Session of Assembly.

John Ridout, Esq; from the Upper House, delivers to Mr. Speaker, the Bill, entitled, *An Act empowering the County Courts to settle with Persons who were formerly Inspectors of Tobacco, and for the Ease of the People in Payment of Publick Dues*; thus endorsed: "By the Upper House of Assembly, Nov. 27, 1771: Read the First Time and ordered to lie on the Table."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"By the Upper House of Assembly, Nov. 28, 1771: Read the Second Time and will pass with the Amendments annexed."

*Signed by Order,*

U. SCOTT, Cl. Up. Ho."

"After the Word 'Tobacco' in the Title, leave out the Remainder thereof. After the Word 'unpaid' in the Sixth Line of the First Page, leave out what follows to the Word 'Dues' inclusive; in the Seventh Line of the same Page. After the Word 'Inspectors' in the Eleventh Line of the Second Page, leave out what follows to the End of the Bill."

Which



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Which was read; and the Amendments proposed were read and agreed to, and the Bill passed for engrossing.

ORDERED, That Mr. Hall and Mr. Grahame do present the Address to his Excellency, which was prepared Yesterday. They return and acquaint Mr. Speaker they have delivered it.

The engrossed Bill N<sup>o</sup>. 39, was read and assented to, and sent to the Upper House with the Paper Bill thereof, by Mr. T. Wright and Mr. W. Richardson.

*The House adjourns till To-morrow Morning 9 o'Clock.*

S A T U R D A Y, November 30, 1771.

THE House met. All Members present as on Yesterday, except Mr. Weems.

The Proceedings of Yesterday were read.

His Excellency communicates to Mr. Speaker the following Message.

*Gentlemen of the Lower House of Assembly,*

A SINCERE undissembled Solicitude for the Welfare of the People; and a generous inflexible Firmness in vindicating their constitutional Privileges, are so laudable, that I should be inclined at least, to excuse a little Excess in the Measures which a sanguine Disposition might form, and eagerly pursue for the Promotion and Stability of the general Interests, to secure Property against Rapaciousness and protect Liberty from Violation, but so many Instances have proved this Virtue of Publick Spirit does not always exist in the greatest Purity, when it is professed with the most ardent Zeal, that Caution and Hesitation in giving Credit to splendid Professions of Disinterestedness, and of Regard for the general Good, can be blamed only by the Folly of Credulity, and the Rashness of Inexperience. Rulers under the Visor of Tenderness, may infringe the Rights of the Subject, and Demagogues under the Guise of Patriotism, fatally seduce their Followers into a Subserviency to their most selfish Views. I wish to have the Sincerity of my Professions tried by my Actions, and that they, who have arraigned my Conduct, may be judged by the same Test. The Censure you have passed in your violent Resolves on a Measure, the Situation of the Province consequent to your own Proceedings in a late Session, rendered necessary, and Passages in my Message, at that Time, having been interwoven with the Reasoning of your extraordinary Address, oblige me to explain those Proceedings, and investigate the Spirit that dictated them, from which, if I am not very much deceived, it will appear to have been the great Object to excite popular Animosity, and that the Resentments you have expressed against my Proclamation, have proceeded from your Persuasion of its having been calculated to prevent Litigation and secure the Publick Peace, and your Apprehension, if left to its proper Effect, it would extinguish the Discontent you took so much Pains to kindle. They who are most impatient of the regular Controuls of an Authority to which they are subordinate, are, not seldom, eager to usurp Power, and disposed, when they expect Submission, to exercise it with haughty Rigour.

The Commitment of Mr. Steuart, the Register of his Lordship's Land-Office, by the Lower House to the common Jail, to be there kept *safe and close until discharged by Order of the House*, appeared to me to be most arbitrary and oppressive; on this Occasion all the Powers, legislative, executive and judicial, were assumed by your House. I interposed and prorogued the Assembly, and assigned the Reasons of my Conduct in the Message to which you have alluded in your Address, and which being fully explanatory of that Transaction, I must take the Liberty to recite.

“ GENTLEMEN,

“It has been the Object of my anxious Attention, and is my very earnest Wish, to cultivate an amicable Understanding with the Representatives of the People of Maryland; and I am therefore deeply affected with Concern, to be thus driven to express a Disapprobation of the Spirit by which some of your Proceedings have been guided, and which prompted your last Address. My Duty I shall always esteem it to be, to avoid every Occasion of reasonable Complaint, but I must not forget, that it is my indispensable Duty, to check the Exercise of such Powers, as are incompatible with the indubitable Authority of Government, the permanent Security of Property, and the constitutional Liberty of the Subject. Pretences for Censure are so easily framed, that the most circumspect Behaviour cannot prevent them. When they unhappily excite Animosity, give Rise to querulous Expostulation, tend to promote popular Discontent, and obstruct the Course of publick Business, though the Mischiefs they produce are much to be lamented, yet I cannot but derive great Consolation from Reflection when they spring from Passions I am not answerable for. Your positive Assertion, that the last Prorogation was an undue and ill-advised Exertion of Power, permit me, Gentlemen, to observe, carries with it no Reasoning to convince my Judgment, nor any Authority to preclude a Vindication, especially as the Motives which influenced me to apply for the Advice of those who are appointed by the Constitution to give it, and the Reasons by which they evinced the Propriety of their Opinion, have not been explained to you. When Conjecture is indulged, there is great Danger of Deception. Jealousy may raise an Alarm, which an accurate Information of Circumstances might prevent, and under this Influence, Animadversion be directed against the Product of mere Imagination. Whether it would have been more regular in your Department to



to have called for a Detail of those Motives and Reasons, and arraigned my Conduct in the Exercise of an unquestionable Prerogative, because not agreeable to your Views, or conformable to your Ideas, than it would be in *mine*, should I require an Account of, and on the same Ground condemn, your Conduct, when exercised in any peculiar Privilege of your House, I shall not undertake to determine; but I must remark, that a precise Information of the Subject ought to have preceded your peremptory Decision upon it, especially a Decision derogatory from the Character of those, who are bound by the strictest Ties not to deserve the Reproach it conveys.

"I do not mean to shelter, under Forms, the Principles on which I was advised, and pursued the Measure of Prorogation, and shall therefore frankly explain them. When I acted upon them, I acted on a Conviction that I performed a most incumbent Obligation. When I review them, I have a great Complacency in the firm Persuasion, that I did what I ought, and should have been culpable if I had omitted. It can hardly, I presume, be a Question, whether, when a Subject in this Government is illegally deprived of his personal Liberty, it is the Duty of the executive Power to relieve him? Whether, where the Authority to afford Relief is placed, there the Application for it is regular; where this is cognizable, there the Propriety of it is determinable? The Right of Petition is established for Purposes so important, and secured and enforced by Sanctions so interesting, that the Representatives of a free People can never, on any Occasion, dispassionately wish to impair or discountenance it. They would rather be inclined to connive at Improprieties in the Manner of exercising the Right, than scan it with a View to Censure.

"Mr. *William Steuart* having been committed by Order of your House to the Common publick Jail, made his Application to me, for Relief against the Oppression of an arbitrary Procedure, claiming that Benefit of Protection, to which he, in common with his Fellow-Subjects, is entitled. A Copy of his Commitment was laid before me, by which it appeared, that, on the accumulative Charge "of having taken Notes of Hand as the Clerk of the Land-Office, for the Payment of Fees contrary to Law, for imposing an Oath as a Justice of the Peace not appointed and required by Law, and for an high Contempt of your House," he was committed "to be kept *safe and close* in the publick Jail, until he should be thence discharged *by Order*" of your House. I required the Consideration and Advice of the Council upon all the Circumstances of the Case, and their Opinion was, that you had assumed an unwarrantable Jurisdiction, which, if admitted, would cancel all the Guards and Securities provided by a wise and free Polity for the Protection of the Subject, and that, having been illegally deprived of his personal Liberty, Mr. *Steuart* was entitled to the Relief, which an Exertion of the Prerogative might afford him. In Consequence of this Opinion, and the Reasons by which it was supported, I interposed by proroguing the general Assembly from Friday till the Monday next following, after having passed all the Bills ready for my assent, and flattered myself that a short Recess, as it had been on other Occasions, would rather be productive of sedate Reflection, than of the heavy Charge, that I had effectually dismissed a publick Offender from Confinement, obstructed publick Justice, and, in Terms of very indefensible Exaggeration, occasioned a considerable Expence to the Province, and a total Stagnation of important Business for several Days. In Vindication, as well of the Gentlemen of the Council as of myself, I shall succinctly rehearse the Reasons they advanced in Support of their Advice. They observed, that where the legislative and executive Authorities, the Will to ordain and the Power to enforce it, are lodged in the same Person or Persons, there a Tyranny is established; that under this free Constitution, these Authorities are therefore distributed into different Departments; that the executive being in the supreme Magistrate, neither House of Assembly can undertake the Administration of existing Laws, without a dangerous Infringement of the Constitution; that, of the legislative, you are but one of the component Parts; that a Right to determine the Fees charged were excessive, implies the Right to settle the exact Compensation due for the Services performed, because, without the Standard, what Fees are adequate, what are more or less than the just Proportion, cannot be ascertained; that your rigorous Commitment was bottomed on the Principle, that to you belongs the Authority of punishing any Deviation from the Line of your Opinion; that if a precise Rule had been regularly preordained by the Law, an Offence against it ought to be prosecuted in a legal ordinary Judicatory; that a Prosecution and Punishment in a different Course, are highly oppressive to the Subject affected thereby; that, in the ordinary regular Administration of Justice, our Polity has applied various excellent Precautions for the Protection of the Subject against Injury, which would be lost, if your House were suffered to execute the Powers you had assumed; for in the ordinary legal Course of Proceeding, the Fact is triable by Jury; the Party charged is not bound to disclose what may expose him to Penalty; the Jury are sworn, and, as far as the Impressions of Religion, and a Sense of Justice can influence, a just and impartial Determination may be expected. If there be reasonable Cause to suspect of Partiality any called to serve on the Jury, a Right to challenge is conferred; if the Jury corruptly render an injurious Verdict, they are liable to Punishment; if mistaken, the Consequence of their Fallibility may often be controuled by the Discernment of a Second Jury; as the Jury are punishable, so are the Witnesses if perjured: The Fact is tried in one Way, the Law determined in another; as there are Provisions to guard against the Injuries of corrupt and mistaken Verdicts, so are there against the Oppression of partial and erroneous Judgments. Judges are upon Oath to do equal Right and Justice to all Persons; they are punishable for Corruption; their Decisions are not conclusive in the First Instance, but are subject to Revision, for which important Purpose a Gradation of Jurisdiction is appointed; the Party is not liable to be harrassed by a Second Prosecution for the same Matter. As these Guards and Securities are of such admirable Efficacy in protecting the



Property, Reputation, and personal Liberty of the Subject, and to which *every* Subject (whether in or out of Office) is as well entitled as *any*, so ought they to be zealously and firmly maintained, and if the Measure proper for their Defence should occasionally suspend the Transaction of other Affairs for a much longer Term than for a Day or Two, the comparatively insignificant Interruption would not deserve a Moment's Deliberation; that these Guards and Securities, so essential to the Stability of Property, and the personable Liberty of the People, upon which so great and invaluable Interests depend, would become precarious indeed, if through the Acquiescence or Inattention of Government, your House should be permitted to assume and exercise the Power you claimed. You are not sworn to determine according to Evidence; to do equal Right and Justice to all Men indiscriminately. The Witnesses examined before you, in a Case of this Nature, would be liable to no Prosecution, if perjured; there would be no distinct Cognizance of Fact and Law; no Challenge allowed to prevent Partiality; no Examination of your Conduct, however improper, in any other Jurisdiction; no new Trial, Writ of Error or Appeal; your Determination whether of Acquittal or Conviction, would be no Bar to a Second Prosecution in a legal Judicatory; on these Grounds I was advised and pursued the Step, which, I am convinced, was constitutional, which the Occasion required, and which the general Security demanded, and am extremely sorry that it has proved to be so offensive to you. Mr. Stuart has already severely suffered for any Irregularity he may have committed, by a rigorous and ignominious Imprisonment; to inflict double Punishment for the same Delinquency, is not consistent with the equitable Spirit of our Constitution, though he may be liable to it.

"His Lordship's Authority has not yet interposed in any Regulation of the Fees of Officers, nor have I any Reason to imagine that it will interpose in such a Manner as to justify a regular Opposition to it. So far as I may be concerned in any such Measure, I shall take good Care to act on mature Consideration; what I shall judge to be right and just, will be the only Dictate by which I shall be determined.

Mr. Calvert and Mr. Stuart have been made acquainted with your Complaint against them, and I send you their Answer, by which you will observe, that they did not intend referring to any Proclamation respecting their Dues; nor do I perceive any Irregularity in their Conduct, as I am of Opinion they were not bound to do the Services without an immediate Payment of, or Security for, their Fees; the Rate which had obtained under Act of Assembly for more than Twenty-three Years, and expired so lately as the 22d of October last, seems to be the most unexceptionable they could follow. His Lordship has, I think, the clearest Right to dispose of his real Estate, upon such Terms as he may think proper; to direct the formal Observances in making Titles to his Grants; and to settle and regulate the Rewards his Officers, in this Department, may demand and receive. Be assured Gentlemen, that I shall, on every Occasion, pay a due Regard to your Rights; that I shall never countenance the illegal Exactions of any Officers, nor submit to any Usurpation, which may essentially endanger that constitutional Balance of counteracting Powers, so necessary to the Protection of the People, and the Preservation of the publick Peace."

A Commitment to be kept safe, tho' you had no legal Authority to commit *at all*, was not a Punishment severe enough to be inflicted on the Person, who incurred your Displeasure; but he must be kept *safe and close*, tho' "*even in Cases of Robbery on the Highway, and other Felonies entitled to Clergy, Commitments are to keep safely, or there to remain till delivered, &c. or at most safely and securely to keep.* When a Goaler is to keep his Prisoner safe, he is only to restrain him, so as to prevent his Escape, but when to keep him *safe and close*, the Goaler is to shut him up from all the World." Thus this Gentleman was condemned without Authority by the Lower House, to undergo an Imprisonment, to which even Highwaymen and Felons are not subject by the Law: And this is not the only Instance of Severity in the Proceedings of the same Session, and of the Exercise of Powers incompatible with the Rights of the Subject. To those who are authorized to give Relief, Petitions may be addressed. The Authority of the Upper House to reject a Bill from the Lower, has not yet been discovered to be unconstitutional. A Petition was addressed by many Inhabitants of Baltimore County to the Upper House, against the Passage of a local Bill; their Justice would not allow them to dismiss a Petition complaining of Injury, without Examination; but, being offensive to the Lower House, it was condemned in a subsequent Session by a Resolve, and Process ordered against the Signers of it, many of whom were arrested, and sentenced to pay Fees. Gentlemen supposed to have signed the Petition, tho' Strangers to it, were discharged without the Mulct of Fees; but without Satisfaction too for the Expence and Trouble of their Journey, Attendance, and Loss of Time.

Under what Law, upon what Principle is it, that the Lower House give Fees to *their* Officers, and under the *Pain of Imprisonment* direct the *immediate* Payment of them? Your Officers have Salaries or Allowances *exclusive* of these Fees. If Fees be Taxes, has the Lower House *alone* Authority to impose them? If properly recoverable on a *Quantum Meruit*, why is your Officer to be paid by your Ordinance? The Officers of Government are supported *only* by their Fees, they have no Salaries, they give Credit to those whom they serve. The Clerk of the County Court claims only Nine-pence for a Summons, and gives Credit. The Clerk of your House gains Three Shillings for the same Service, and is paid *immediately*, or the Person liable is imprisoned. If there be no Act of Assembly, authorising your Practice in allowing Fees to your Officers, whence do you derive your Authority? You must depart from your Principle, if you allege the Power to be incidental.

In the Year 1669 the Governor and Council settled the Fees of your Clerk at Thrice the Sum the Clerk of a County would be entitled to, for a similar Service, have you derived your Practice



Practice from this Ordinance? If Allowance be made for late Reductions, the Proportion is nearly preserved.

Under what Law, or on what Principle is there an Allowance to your Speaker, and Clerk on the Passage of private Bills? You, alone, surely, are not the Assembly.

When on mature Reflection you shall have ascertained the Principle of your own Practice, I flatter myself you will be inclined to judge less unfavourably, and speak with less Asperity of the Conduct of myself, and his Lordship's Council.

Ever since the Settlement of the Province Fees have been received by the Officers, the last Regulation of Fees, contained in the Inspection Law, was the most moderate, and easy to the People; when you chose to drop that Law, the Regulation of Fees expired with it. Officers are necessary, and must be supported at the Expence of those, for whom they perform Services. You contend that the Fees of the Officer are recoverable *only* on a *Quantum Meruit*, to be ascertained by a Jury; considering the Jurisdiction of our Courts, you must perceive that an Officer in most Instances, when he is entitled to be paid, can bring no Action on which the Justice of his Demand may be determined by a Jury; for the Demand must be 600<sup>lb</sup> of Tobacco or 50 Shillings current Money of *Maryland*, or it cannot be brought before a Jury; if this be attended to, your popular Argument must strike with little Impression.

The Duration of the Inspection Law, under so many Continuances, affords a strong Presumption of the Utility of its Provisions, and the Proceedings of the Lower House in the Year 1755, give a most emphatical Proof of it.

The following is Part of his Excellency's Message to the Lower House at that Time:

"Having just received Advices from the Lord Proprietary, I take this Opportunity of paying the most ready Obedience to his Lordship's Instructions, by acquainting you that his Lordship has, on a full and deliberate Consideration of the several Acts that were enacted in the *October Session 1753*, signified to me, that the Objections which lie against some Parts of the Act, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*, would have induced him to signify his immediate Dissent to that Act, had not a Sense of the great Utility of that Part of the Act which relates to the Staple of Tobacco, his Lordship's affectionate Regard for his Tenants, and a firm Persuasion that you will not hesitate to prepare a Bill to repeal the Parts objected to, inclined him to suffer the Act to continue till his pleasure thereon could be made known to you, that you may have an Opportunity to agree with the Gentlemen of the other House, on such repealing Act as his Lordship expects and desires. The exceptionable Clauses are those that relate to the regulating and limiting Officers Fees, and the Rates of *English* and foreign Coins."

In Answer to which his Excellency received the following Address from the then Lower House.

"May it please your Excellency,

"In Answer to your Message of the 4th Instant, we cannot but express our Concern, that any Parts of the Act, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*, should be liable to the least Objection from our Lord Proprietary.

"We should be sorry to find that a *Regulation of Officers Fees*, agreed upon after the most mature Deliberation, by the several Branches of the Legislature, and subsisting Five Years, and then again, with but small Alteration, revived and continued, should be so disagreeable to his Lordship, as to induce him to dissent to an Act, the greatest Part whereof he acknowledges to be of great Utility. We conceive the *Parts objected to* by his Lordship are of great Advantage to this Province, and highly conducive to the Ease and Quiet of his Lordship's Tenants; and forasmuch as his Lordship, from a Sense of the great Usefulness of that Part of the Act which relates to the Staple of Tobacco, and an affectionate Regard for his Tenants, has been induced not to signify his immediate Dissent thereto, so we, from the same Motives, as to the whole, cannot consent to a Repeal of those Parts, or either of them, &c."

The Lower House having thus declined to pass an Act agreeable to his Lordship's Request, the Governor was prevailed upon by the Council, not to dissent to the Inspection Act, and upon the Representation and Solicitation of the Council, the Lord Proprietary withdrew his Instruction.

It must be admitted that without some Rule to controul the Demands of Officers, there would be great Danger of Extortion, and of perpetual Contest, the Timid might submit to the most grievous Oppression, and the Turbulent refuse to pay the most reasonable Demand. That I am not authorised to prevent the Mischiefs of Extortion and Litigation, by restraining the Officers Demands, is the Point you have endeavoured to maintain; on which you have displayed your Zeal, given ample Scope to your Patriotick Regards, and accused those, whose Opinion differs from your own, of being Enemies to the Peace, Welfare and Happiness of this Province, and the Laws and Constitution thereof—an heavy Charge, but, happily, a Charge that marks the Temerity and Rage of the Promoters of it; but is devoid of Proof to fix the imputed Guilt of the Accused, to whom I pay no great Compliment, when I say that they are animated by as tender Regard for the Peace, Happiness and Constitution of this Province, as the FRAMERS of the Address and Resolves.

For the very Purpose of regulating the Conduct of the Officers, in the Article of their Fees, to point out to them what they might, and beyond which they should not demand, I issued my (*shadow'd* as you call it) Proclamation in the following Words.

MARYLAND.



MARYLAND, ff.

By his Excellency ROBERT EDEN, Esquire, Lieutenant General and Chief Governor in and over the Province of Maryland.

## A P R O C L A M A T I O N.

“BEING desirous to prevent any Oppressions and Extortions from being committed, under Colour of Office, by any of the Officers and Ministers of this Province, and every of them, their Deputies or Substitutes, in exacting unreasonable and excessive Fees, from the good People thereof, I have thought fit, with the Advice of his Lordship's Council of State, to issue this my Proclamation; and I do hereby therefore order and direct, that from and after the Publication hereof, no Officer or Officers, (the Judges of the Land-Office excepted, who are subject to other Regulation to them given in Charge) their Deputies or Substitutes, by Reason or Colour of his or their Office or Offices, have, receive, demand or take, of any Person or Persons, directly or indirectly, any other or greater Fees than by an Act of Assembly of this Province, entitled, *An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees*, made and passed at an Act of Assembly, begun and held at the City of Annapolis, on Tuesday the Fourth Day of October, in the Year of our Lord Seventeen Hundred and Sixty-three, were limited and allowed; or take or receive of any Person or Persons, on immediate Payment, (in Case Payment shall be made in Money) any larger Fee than after the Rate of Twelve Shillings and Six-pence common current Money for One Hundred Pounds of Tobacco, under the Pain of my Displeasure. And to the Intent that all Persons concerned may have due Notice thereof, I do strictly charge and require the several Sheriffs of this Province, to make this my Proclamation publick in their respective Counties in the usual Manner, as they will answer the contrary at their Peril. Given at the City of Annapolis this Twenty-sixth Day of November, in the 20th Year of his Lordship's Dominion, Anno Domini 1770.

Signed by Order,

U. SCOTT, Cl. Con.”

Besides the Clauses mentioned in your Address, King Charles granted by the Charter of this Province to Lord Baltimore, all and singular the like, and as ample Rights, Jurisdictions, Privileges, Prerogatives, Royalties, Liberties, Immunities, royal Rights, and Franchises of what kind soever temporal, as well by Sea as by Land, to enjoy the same as amply as any Bishop of Durham within the County Palatine of Durham then had, or at any Time theretofore had held, used or enjoyed, or of Right ought or might have had held, used or enjoyed.

By another Clause in the Charter his Lordship had Power to appoint Deputies, Lieutenants, Judges, Justices, Magistrates, Officers and Ministers for what Cause soever, and with what Power soever, and in such Form as to him and his Heirs should seem most convenient, and to do all and every other Thing which unto the compleat Establishment of Justice, Courts, Tribunals, and Forms of Judicature and Manner of Proceedings do belong, tho' in these Presents express Mention be not made thereof.

Argument would be unnecessary to prove, that if the Royal Prerogative could settle the Fees of Officers in the Plantations, the same Authority was granted to Lord Baltimore in this Province, and that the declarative Clause in the Charter, “so that the same Ordinances do not in any Sort extend to oblige, bind, charge, or take away, the Right or Interest of any Person or Persons, of or in Member, Life, Freehold, Goods or Chattels,” contains no Restriction more than would have resulted by Operation of Law, nor renders his Lordship's Prerogative here, less forcible than the Royal in the other Colonies.

Between 1633 and 1637, the Officers appointed by Lord Baltimore, or his Governor, were authorised by their Commissions to demand and receive such Fees as were usually paid in England or Virginia for similar Services.

In the Year 1642 a Table of Fees was settled, and published by the Governor and Council.

In the Year 1676 an Act passed for Limitation of Officers Fees, but before this Act was framed, the Lower House were acquainted in a Message from the Upper, that the List of Chancellor's Fees was settled by the then late Lord Proprietary, and his present Lordship would not consent to any Act for settling the same, it being his Prerogative; but that the List might be recorded in the Journals of the House; whereupon the Lower House voted, that they did not desire to intrench on his Lordship's Prerogative, but all they aimed at was, that the Inhabitants might certainly know what Fees they were to pay, and since Nothing could be more reasonable than that the same should be settled and published, they humbly requested his Lordship to ascertain the Fees of all his Officers, and that fair Lists thereof might be drawn out with his Lordship's Assent, and true Copies thereof be sent to the respective County Courts to be published and recorded, and that an Act might be drawn up for the fining of every Officer exceeding the same.

Pursuant to this the perpetual Act of 1676 passed, with the following Proviso, “if any Fees for any Matter or Thing to be done, belonging to the several Offices, and by the Lord Proprietary or his Governor so allowed and adjudged, and not in this Act mentioned, then it shall be lawful to have and receive such Fees as the Lord Proprietary and Council shall allow, and no more.”

In June 1692, an Act for repealing the Laws theretofore passed, was enacted. In the same Assembly a temporary Act for Three Years, for Limitation of Officers Fees, passed with the same



same Proviso as in the Act of 1676, and from 1692, to 1725, except for a very short Interval in Governor *Hart's* Time, temporary Acts were passed from Time to Time for Limitation of Officers Fees, with the same Proviso as in the Act of 1676.

Governor *Copley* was empowered by his Commission and Instructions from the Crown, to settle, with the Council, the Fees of Officers.

In their Majesties Commission to Mr. *Blackiston* in 1692 to be Commissary-General, he was empowered to receive all Dues, Fees, Profits and Emoluments, belonging to his Office, as should be settled by their Majesties, or their Captain-General and Council.

Governors *Nicholson*, *Blackiston*, *Seymour* and *Hart*, the successive Governors after *Copley*, appointed by the Crown till Lord *Baltimore* was restored, were also respectively empowered to settle the Officers Fees.

In the Province of *New-York* in the Year 1704 the Fees of Officers were settled by the Governors and Council, and the Regulation, they established, has been continued to the present Time.

'Tis true that the Power given by the respective Royal Commissions, was seldom exercised, because Fees were regulated, for the most Part, by Acts of Assembly, but it may be inferred from the Tenor of the Commissions, that the Prerogative of settling Fees was claimed by the Crown, and, probably, it was a Power usually inserted in the Royal Commissions to the Governors of the Colonies.

You have seen that it has been exercised in *New-York*. Shall it be said that King *William*, of glorious Memory, Queen *Anne*, and *George* the First, were "Enemies to the Peace, Welfare and Happiness of this Province, and the Laws and Constitution thereof?" That the People of *New-York* have been oppressed, and have tamely submitted to the Oppression? For a very short Time, during Mr. *Hart's* Administration, the Act for Limitation of Officers Fees ceased, and thereupon his Excellency directed the Keeper of the Seal to affix it to no Paper, till the Fee should be paid according to the Rate of the expired Law, in Cash at the current Price of Tobacco. These Precedents considered, must not your Resolves appear to be extremely violent?

In the Year 1692, when Governor *Copley* attempted to regulate Officers Fees, the Act of 1676 was in full Force, and there was no Occasion to exert the Prerogative to prevent Extortion, or for any other Purpose, the Act being sufficient, and having excluded the Regulation by Prerogative, so that the Precedent from the Proceedings in 1692, which you represented as decisive, not being applicable, and the Precedents on the other Side being very numerous, you ought to be satisfied on your own Principle, that you have been too hasty.

If the Regulation of Officers Fees be a Tax, which by the Constitution cannot be settled by any Authority less than the Legislative, the Judges of the King's Courts in Westminster-Hall, who have regulated the Fees of Officers in various Instances, have been extremely culpable, and the juridical Decisions, as well as the Opinions of Lawyers of great Eminence, Lord *Coke* among the rest, have been erroneous.

In the Year 1733, Lord *Baltimore* by his Proclamation settled the Fees of Officers. His Lordship did not proceed without good Advice, and if the Decrees and Judgments of all the Courts of Law and Equity within this Province, in innumerable Instances, are of any, and surely they ought to be of the greatest Weight, his Regulation was legal; for the Costs in every Suit from 1733 to 1747 were decreed or adjudged in all the Courts, according to the Rates of his Lordship's Proclamation.

It is true that the Lower House in the late Session declared their Opinion, that Fees could not be regulated by the Lord Proprietary, by himself, or the Advice of his Council; and threatened an Opposition to what was called in their Address the *Usurpation of such a Right*. My Answer was, that I had no Reason to imagine his Lordship's Authority would interpose in such a Manner as to justify a regular Opposition to it, nor have I yet any Reason to think that it has, tho' it has met with your Opposition and severe Censure. I was not so rash as to promise, or sanguine to expect, that any Measure I could pursue would divert the Aims of Faction, or appease the Rage of Disappointment. The plain View of the Address was, that the Loss of the Inspection Law might be aggravated by the Confusion and Vexation, which would naturally arise from the total Want of every Kind of Regulation. Let it be supposed that Actions should be brought for the Establishment of each Fee, or that Officers should be prosecuted for Extortion, who would be benefited by the Litigation? Not the Community in general. Such Contests would hardly be desired by Friends to the Peace, Welfare and Happiness of this Province.

Not only your Regard for the Rights of the People in general, but even for the Officers, has disposed you to complain, that they have been illegally restrained. How far your Constituents may think themselves obliged to you for the Objection you have made against my Restrictions of the Officers, and Threats to remove them, should they commit Extortion, I cannot promise; but I must remark, that you differ in Sentiment extremely from the Assembly in the Year 1739, for when Governor *Ogle*, in his Speech, proposed, in order to encourage the Circulation of Paper Money, that the Officers should be compelled by an Act to receive their Fees in Money, the Lower House answered, that it was in his Excellency's Power to command them; but he could no otherwise compel them to receive their Fees in Money, than by the Threats of his Displeasure, and his Power to remove them. How proper your Application of Part of my Message, on the Subject of Mr. *Steuart's* Imprisonment, is to my Restriction of Officers in the Article of Fees, it is unnecessary to prove. The Impropriety of it must strike at the first Glance.

I thought, and still think, that his Lordship has the clearest Right to dispose of his real Estate on such Terms as he may judge to be proper, to direct the formal Observances in making Titles to his Grants, and to settle and regulate the Fees his Officers in this Department may demand



and receive, and was very little aware, that any momentous Question could be raised to alarm any one, which, I hope, will be obviated, when I declare, that tho' I must conceive his Lordship's Preheminence does not deprive him of the Power every Man has over his Property, either to retain, or dispose of it, on such Terms as he may chuse, yet am I also satisfied, that his Lordship has as little Authority as Inclination to reduce the People of this Province to the Condition of Tenants at Will, or in any Degree to impeach or impair their Rights. You speak of his Conditions of Plantations. They are various, and were published at different Periods. The Circumstances of the Province have undergone great Alterations, and the Conditions having been adapted to these, have consequently varied. His Lordship's Property and Authorities, under the Charter, are very ample and extensive. By the Terms of the Royal Grant, he may grant in Fee Simple, Fee Tail, for Life, or Years, by so many, such, and so great Services, Customs and Rents, as to him, his Heirs and Successors shall seem fit and agreeable. You, however, cannot but think him bound by *some* Conditions of Plantations, tho' you have not explained whether the first, last, or which of the intermediate, among the various Conditions that have at different Periods been published; to all of which, moreover, Reservations have been added, that they should be in Force only till superceded by other. This Pretension is so extravagant, that it cannot be of any Use to spend Time in exposing it. Whilst you express a Solicitude that his Lordship's Tenants should be secure in their Property, the Regard due to Justice should have prevented a Suggestion that must shock every Idea of it. His Lordship will make no injurious Attempt on the Rights of his Tenants, nor suffer them to invade his.

His Lordship's Authority to dispose of his Property, as he pleases, cannot be seriously doubted, and as he may set the Value of One Hundred Shillings or One Hundred Pounds, on One Hundred Acres of Land, so may he, as well as every other Person having Property, require that his Officers and Agents shall be employed, Formalities be observed, and Fees or Rewards paid to his Servants. In this Respect the Land-Office may be called, if you please, his Lordship's private Office. So far as it is the Repository of the Muniments of his Tenants Estates, it is a publick Office, and all the People of *Maryland* are entitled to have Access to it, as well as to the other Offices. It would be Injustice to deny it; but the Officers in this Department are of his Lordship's Appointment, and are not bound to do any Services without an adequate Compensation for them.

Being, however, under a different Predicament from the other Officers, considered in One Respect as the private Agents of his Lordship, and in the other as having the Custody of publick Records and the Muniments of the Peoples Estates, in my Regulation they have been separated from the other Officers, as they had on similar Occasions. Cease then your Endeavours to alarm, by suggesting an Apprehension you cannot feel.

It is not only the Right, but the Duty of the Representatives of the People to remonstrate against every Infringement of their Privileges; but permit me to observe too, that they ought to be particularly cautious in their Assumption and Exercise of Powers, with which they are not intrusted by the Constitution. Your Practice of ordering the Attendance of Men at your Bar, and imposing Fines upon them under the Term *Fees*, is not to be defended, and this Proceeding is so irregular and oppressive, that I am surpris'd it has not been checked by Opposition. The Opposition of one Man would at once shew, that you have assumed a Jurisdiction you have not the Means of compelling an Obedience to, and, consequently, not belonging to your Body.

Your Claim of Privilege in the Article of Taxes, I presume will not be easily admitted by the Upper House. Usage and Precedents are against it, and as you have shewn a just Respect for the Sentiments of Lord *Camden* on another Subject, so I hope you will not disregard his Opinion upon this Topick. On the Quere, "whether the Lower House of *Maryland* be entitled to the Privilege they have claimed on Money Bills," his Lordship's Answer was, "The Upper House are right in making a Stand, and should take Care how they admit Encroachments of this Kind, when they are supported by Arguments drawn from the Exercise of like Rights in the House of Commons here; the Constitutions of the Two Assemblies differ fundamentally in many Respects. Our House of Commons stands upon its own Laws; whereas Assemblies in the Colonies are regulated by the respective Charters, Usages, and the Common Law of *England*, and will never be allowed to assume all those Privileges, which the House of Commons are entitled to justly, here, upon Principles that neither can, nor must be applied to the Assemblies of the Colonies; and in this Disposition of the Lower House to assume to themselves any Privileges, which the *English* House of Commons enjoy here, all such Attempts should be resisted, where they are unreasonable with Firmness, and no Encroachment should be established upon the Weight of that Argument singly, for I am satisfied, neither the Crown nor the Parliament will ever suffer the Assemblies to erect themselves into the Power and Authority of the *British* House of Commons."

I did not determine to issue my Proclamation, till after the most mature Consideration, it appeared to me to be a Measure, not only lawful, but necessary; not only what I might, but what I ought to pursue; the Framers of your Resolves have, indeed, censured it, in outrageous Terms of Resentment, and I am not without Suspicion, the great Benefits of an Inspection Law have been given up, that Clamour and Dissention might succeed; but I have Reason to believe, most thinking and dispassionate Men approve of an Interposition calculated to promote the Peace and Tranquillity, and consequently the Happiness of the People. Whom I am to consult, and whom exclude from my Confidence, I must not suffer you to direct, however ardently some of you may wish it; nor shall any Man have the least Pretence to reproach me with the Dishonour of having betrayed, with the smallest Appearance, his Confidence. So clear



clear is my Conviction of the Propriety and Utility of a Regulation to prevent Extortion and infinite Litigation, that, instead of recalling, if it was necessary to enforce it, I should renew my Proclamation, and, in stronger Terms, threaten all Officers with my Displeasure, who shall presume to ask or receive of the People, any Fee beyond my Restrictions.

ANNAPOLIS, 29th Nov, 1771.

ROB. EDEN.

Which was read.

*Daniel of Saint Thomas Jenifer*, Esq; from the Upper House, delivers to Mr. Speaker, the Paper Bill No. 39; thus endorsed: "By the Upper House of Assembly, Nov. 29, 1771: The engrossed Bill whereof this is the Original, read and assented to.

Signed by Order,

U. SCOTT, Cl. Up. Ho."

ORDERED, That the Proceedings upon the Conference, the Address to the Governor upon the Subject of his Proclamation, the Resolves therewith sent, and the Governor's Answer thereto, be immediately printed separate from the Journal, and Four distinct Copies sent, in the same Manner as publick Letters are sent, to each Person who is entitled to receive the Votes and Proceedings of this House.

ORDERED, That Mr. *Grahame* and Mr. *Mackall* do acquaint his Excellency, that no publick Business lies before this House.

*Benedict Calvert* and *Daniel Dulany*, Esquires, from the Upper House, acquaint Mr. Speaker, that the Governor requires the immediate Attendance of the Lower House in the Upper House.

Mr. Speaker left the Chair, and, attended by the Members of the Lower House, went to the Upper House, and there presented to his Excellency the following engrossed Bills, viz.

- No. 1. An Act for vesting in such foreign Protestants as are now naturalized, or shall be hereafter naturalized in this Province, all the Rights and Privileges of natural born Subjects.
- No. 2. An Act for the Adjournment and Continuance of the High Court of Appeals.
- No. 3. An Act empowering the Justices of *Prince George's* and *Frederick* Counties, to levy on the taxable Persons of *Prince George's* Parish in said Counties, the Sum of Ninety-six Thousand Pounds of Tobacco, for building a new Parish Church, at or near the Place where the old one now stands.
- No. 4. A Supplementary Act to the Act, entitled, An Act for the building a Parish Church, in *Queen-Anne* Parish, in *Prince George's* County.
- No. 5. An Act continuing an Act, entitled, An Act to establish a Market at the Market-House in *Chester-Town*, in *Kent* County, and for the Regulation of the said Market.
- No. 6. An Act continuing an Act, entitled, An Act for the Preservation of the Breed of Fish.
- No. 7. An Act for imposing a further additional Duty of Five Pounds Current Money per Poll on all Negroes imported into this Province.
- No. 8. A Supplementary Act to the Act, entitled, An Act for the building of a Parish Church in *Christ Church* Parish, in *Calvert* County.
- No. 9. An Act to empower the Justices of *Somerset* and *Worcester* Counties, to levy on the taxable Inhabitants of *Stepney* Parish in said Counties, the Sum of Sixty Thousand Pounds of Tobacco, for the Uses therein mentioned, and to establish the Church at *Green-Hill*, the Parish Church for said Parish.
- No. 10. An Act to empower the Justices of *Worcester* County, to levy on the taxable Inhabitants of *All-Hallows* Parish in said County, the Quantity of Thirty-two Thousand Pounds of Tobacco, for the Uses therein mentioned.
- No. 11. An Act for preventing trivial Suits in the Provincial Court.
- No. 12. An Act for confirming to *Samuel Cookson* of *Baltimore* County, sundry Lands therein mentioned.
- No. 13. An Act to prohibit raising Swine and Geese in *George Town*, in *Frederick* County.
- No. 14. An Act reviving and continuing an Act, entitled, An Act for amending and repairing the publick Roads in *Baltimore* County.
- No. 15. An Act to divide *Prince George's* Parish in *Frederick* County, and to erect one new Parish by the Name of *Christ Church* Parish.
- No. 16. An Act to prevent the Exportation of Flour, not merchantable, from *George-Town* in *Frederick* County.
- No. 17. A Supplementary Act to the Act, entitled, An Act to enable the Justices of *Dorchester* County Court, to assess and levy on the taxable Inhabitants of the said County, a Quantity of Tobacco for the Purpose of building a Court-House.
- No. 18. An Act to empower *Frank Lecke* and *George Digges*, Administrators of *Charles Digges*, late of *Prince George's* County, deceased, with the last Will of the same *Charles* to their Letters of Administration annexed, to sell a Lot of Ground of the same *Charles*, situate and being in the Town of *Upper Marlborough*, in *Prince George's* County aforesaid, for the Payment of the Debts of the said *Charles Digges*.
- No. 19. An additional Supplementary Act to the Act, entitled, An Act for the Relief of the Poor within the several Counties therein mentioned.
- No. 20. An Act to enable the Commissioners for emitting Bills of Credit, to pay to *William Mills*, *John Peacock*, *Peter Payne*, Executor of *Ralph Price*, and *Anne Gaither*; the Sums of Money therein mentioned.
- No. 21. An Act to prevent the Exportation of Flour, Staves and Shingles, not merchantable, from the Town of *Baltimore*, or *Fell's-Point*, in *Baltimore* County, and to regulate the Weight of Hay, and Measure of Grain, Salt, Flax-seed, and Fire Wood within the said Town.

No.



- No. 22. An Act continuing an Act, entitled, An Act for licensing Ordinary-Keepers, Hawkers, Pedlers and petty Chapmen.
- No. 23. An Act for the Relief of certain Prisoners in the several Jails therein mentioned.
- No. 24. An Act to remedy divers Defects in the Records of *Charles County*.
- No. 25. An Act for the further Adjournment and Continuance of the High Court of Appeals.
- No. 26. An Act for the Adjournment and Continuance of *Frederick County Court*.
- No. 27. An Act empowering the Justices of *Prince George's* and *Charles Counties*, to levy on the taxable Inhabitants of *Saint John's*, commonly called *King George's*, Parish in said Counties, the Quantity of Fifty-six Thousand Pounds of Tobacco, for the Purposes therein mentioned.
- No. 28. An Act for the Naturalization of *Charles Frederick Wiesenthal*.
- No. 29. An Act to levy on the taxable Inhabitants of *Baltimore County*, the Quantity of Three Hundred Thousand Pounds of Tobacco, for finishing and compleating the Court-House and Prison of the said County.
- No. 30. An Act to empower *Elizabeth Williams*, Administratrix of *George Williams*, with the Will annexed, to make and execute the Conveyances therein mentioned.
- No. 31. An Act to empower *Jane Ridgely*, Executrix of *Nicholas Greenberry Ridgely*, late of *Anne-Arundel County*, deceased, to convey the Land therein mentioned.
- No. 32. An Act for the directing the Sale of the Lands of *John Stone Hawkins*, late of *Prince George's County*, deceased, for the Payment of the Debts of the said *John Stone Hawkins*.
- No. 33. An additional supplementary Act to the Act, entitled, An Act for the Establishment of Religious Worship in this Province according to the Church of *England*, and for the Maintenance of Ministers.
- No. 34. An Act to enable the Executors of *Thomas Colvill* to convey the Land therein mentioned.
- No. 35. An Act for amending and declaring the Law in the Cases therein mentioned.
- No. 36. An Act for the speedy and effectual Publication of the Laws of this Province, and for the Encouragement of *Anne Catharine Green*, of the City of *Annapolis*, Printer.
- No. 37. An Act to empower *Mary Louttit*, Executrix of *James Louttit*, deceased, to convey One undivided Third Part of the Mill and Land therein mentioned.
- No. 38. An Act relating to the levy and Poor of *Anne-Arundel County*.
- No. 39. An Act empowering the County Courts to settle with Persons who were formerly Inspectors of Tobacco.
- All which, except No. 15 and 32, his Excellency passed into Laws in the usual Manner, and made the following Speech.

*Gentlemen of the Upper and Lower Houses of Assembly,*

I AM sorry the Season is so far advanced, that you are prevented entering into Consideration of those Subjects which I recommended to your Attention at the Opening of the Session; I must however hope, that their Utility will not be overlooked the First Opportunity that presents itself to you, especially a Review of the State of the Criminal Law, the Defects of which I so fully pointed out, on the Address of the Lower House, this Session; a Circumstance which flattered me with Hopes that the same would be taken into immediate Consideration.

*Gentlemen of the Lower House,*

The vast Loss of Time to yourselves, and the great Expence of Money to the Country which has accrued this Session, and the very little Business that has been done at it, give me the greater Concern, as I had flattered myself, that an Inspection Act would be re-enacted, from which so many Benefits had been experienced.

How it has happened that your Sentiments in respect of that Regulation, are so opposite to the Opinion of the Assembly in 1755, I shall not undertake absolutely to pronounce. In 1755, as appears by your Journals, Lord *Baltimore* threatened his Dissent to the Inspection Law, then in Force, because it contained a Regulation of Officers Fees, and of foreign Coins: His Instruction being communicated by the Governor, the Lower House expressed their Sorrow, that a Regulation of Officers Fees, agreed upon after the most mature Deliberation, and that had subsisted for Five Years, been revived and continued, should be objected to by his Lordship; and declared their Opinion, that the Parts respecting Officers Fees and foreign Coins were of great Advantage, and highly conducive to the Ease and Quiet of the People. The Governor was then prevailed upon by the Council, to suspend the Publication of his Lordship's Dissent, and on the Representation and earnest Solicitation of the Council, his Lordship withdrew his Instruction.

I am willing to impute my present Disappointment to the Flame you were blown into at the Opening of the Session, by the mistaken Construction or Explanation of a Proclamation issued by me, solely for the Benefit of the People of this Province, by Nine Tenths of whom I have the greatest Reason to think it was so understood. I must add, that I sincerely wish the same Zeal for the Service of this Province which has all along actuated my Conduct, was diffused amongst others, and it is not now too late to hope it may be so hereafter.

His Lordship's Officers throughout the Province, are thoroughly acquainted with my Sentiments, and the Consequences of any Disobedience of the Orders issued by me with respect to any Imposition on, or Extortion from the People, during the Want of the Inspection Law, I am therefore under no Necessity of repeating the Proclamation on that Head, otherwise, notwithstanding your Address, I most certainly should do what I think my Duty in the Situation I



ROBERT EDEN, Esq; GOVERNOR. 89

am placed requires; and whilst I continue therein, I hope my Actions will ever evince, that the Prosperity of the Province is the First Object of my Wishes.

*Gentlemen of both Houses,*

It is full Time to put an End to this Session. By and with the Advice therefore of his Lordship's Council of State, I hereby prorogue this Assembly to the 18th Day of *February* next, being the Third Tuesday of that Month; and you will accordingly take Notice that you are prorogued to that Time.

So endeth this Session of Assembly, this 30th Day of *November*, in the Twenty-first Year of the Dominion of the Right Honourable FREDERICK absolute Lord and Proprietary of the Provinces of *Maryland* and *Avalon*, Lord Baron of *Baltimore*, &c. and in the Year of our Lord 1771.

Test. JOHN DUCKETT, Cl. Lo. Ho.

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A N N A P O L I S:

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ROBERT EDEN, Esq. Governor.

and placed regularly; and whilst I am in the Province, I hope my Actions will ever convince you  
of the Rectitude of the Province is the first Object of my Wishes.

Gentlemen of the House,

It is all I can do to put an End to this Letter. I have with the Advice of the Council of State, I have by your Order this Assembly to the 18th Day of February, in the  
Third Year of that Month, and you will accordingly take Notice that you are now  
assembled to this Time.

So under this Session of Assembly, this 20th Day of January, in the Twenty-fifth Year of  
the Dominion of the King, I have by your Order this Assembly to the 18th Day of February, in the  
Third Year of that Month, and you will accordingly take Notice that you are now  
assembled to this Time.

JOHN DUCKETT, Cl. Sec. Esq.



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A. N. A. P. O. S.



